

A
COLLECTION
OF
ALL SUCH
ACTS
OF THE
GENERAL ASSEMBLY
OF
VIRGINIA,

OF A PUBLIC AND PERMANENT NATURE, AS
ARE NOW IN FORCE;

WITH A
NEW AND COMPLETE INDEX.

TO WHICH ARE PREFIXED THE DECLARATION OF RIGHTS,
AND CONSTITUTION, OR FORM OF GOVERNMENT.

PUBLISHED PURSUANT TO AN ACT OF THE GENERAL ASSEMBLY,
PASSED ON THE TWENTY-SIXTH DAY OF JANUARY, ONE
THOUSAND EIGHT HUNDRED AND TWO.

RICHMOND,
PRINTED BY SAMUEL PLEASANTS, JUN. AND HENRY PACE.

M,DCCC,III,

Law Office
Virginia
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P R E F A C E.

BY an act of the General Assembly of Virginia, dated December 28th, 1792, it was ordained, that a collection should be made of all such acts of the Assembly, of a public and permanent nature, as were then in force. For this purpose, several lawyers were solicited to superintend the compilation. Mr. Davis, then printer to the Commonwealth, did not get the work completed 'till the close of the year 1794. It, therefore, embraced all such laws, of a public and permanent nature, as were passed during the session, which commenced November 11th, 1794.

It was unavoidably to happen that this collection would almost immediately become defective ; and that its defects were to increase annually, and without intermission. The new laws of the more important class were, for the most part, occupied in altering, or in repealing some of their predecessors. Hence, it was evident, that if a man of business was not regularly supplied with the additional laws, the Revised Code would be quite as likely to lead him into mistakes, as to give him proper information. The consequence was, that every practitioner of the law found it necessary to purchase, annually, the large folio pamphlet, containing the laws of each succeeding assembly. In the course of a man's life, these publications would have swelled into a library ; and, what was extremely inconvenient, by far the greater part of them were laws of a local and private nature, which were totally useless, and a mere incumbrance to the practitioner in a court.

This Revised Code, with all its augmenting imperfections, had become extremely scarce. The original price was eight dollars. But it was almost impossible to obtain the book at any price whatever. The constant demand for the Revised Code induced the proprietors of the present work to publish proposals for a second, and improved edition, which was to bring down the collection so late as to the end of the session of December, 1801. In the former

edition, therefore, the latest act of Assembly bears date the 26th of December, 1794. In the present edition, the latest statute passed upon February 2d, 1802. This makes a difference of more than seven years; and these seven years appear to have been distinguished beyond every former period of the history of the commonwealth, by the multitude and importance of the laws which in that time were passed. To give a complete idea of this fact, we have only to observe, that the edition of Mr. Davis contained *one hundred and eighty-one statutes*; and that the present contains **THREE HUNDRED AND THIRTEEN**. Of these, one hundred and thirty-two additional statutes, one hundred and twenty-six were passed within those seven years. They compose, therefore, in point of number, more than two-fifths of the whole collection. The other six laws, which make up the total additional number of one hundred and thirty-two, had been passed long before the publication of the former edition of "The Revised Code." Some of them are of very considerable length. They were selected, and inserted by the special advice and desire of Governor Monroe. He was one of the gentlemen who had been appointed to revise the former edition; and it was his opinion that these six acts of Assembly had been improperly omitted,

Exclusive of the index, the title page and preface, the present volume contains four hundred and fifty-four pages. Of these, the additional laws fill an hundred and twenty-four pages, which is not much less than a third part of the whole text. It is not necessary to say how much more convenient this concise and conspicuous arrangement must be, than to have the trouble of wandering through seven folio pamphlets, in quest of a statute.

These details, without any comment of ours, abundantly prove, had, indeed, other evidence been wanting, the propriety and necessity for a second edition of this book. It is now, also, condensed into a much more manageable size than it formerly assumed. No gentleman's pocket can, at least, in the present age, contain a folio volume; and much less would it contain the enormous appendage of seven folio pamphlets. In riding ten, or fifteen miles to a county

court-house, a gentleman does not always think it worth while to take a portmanteau along with him; nor, indeed, is every portmanteau large enough to contain such masses of print and paper. Upon this account, the present edition has been reduced to an octavo size, and printed as closely as possible. Hence, a lawyer, when he sets out for the county court-house, will no longer be obliged to leave his eight folios behind him, and, amidst a croud of competitors, to solicit the unfortunate clerk of the court to let him have a sight of the Revised Code. He can now put his hand into his pocket, and take out a genteel, portable, octavo volume, which comprehends his former library, disencumbered of all its rubbish. The type, on which the present edition is printed, is either the same, or almost exactly the same with that of the last, and most esteemed London edition of Coke upon Littleton. This circumstance is mentioned here, because a complaint had been made, in one of the Richmond newspapers, by some nameless writer, that the type was too small. You cannot, at the same time, enjoy the cool, bracing breeze of winter, and the verdant vegetation of summer. You cannot, in the same book, unite the advantages of a folio, and of an octavo. If this edition had been printed upon a type as large as that of Mr. Davis, it must have been one-third part dearer than it is; for the volume, including the new index, and the bottom notes, positively contains one third part more of matter than the former edition. The price, to subscribers, must have been raised to nine dollars; and to non-subscribers, to twelve dollars. Very few purchasers will regret that the publication can be had at a price so much more reasonable,

The former edition laboured under more than one material defect. It was often impossible to tell at what time a statute had originally passed. Put the case, that a deed was to be contested, which bore date in 1760. It is clear that this transaction could not be affected by laws made posterior to its date. It became a question how long the law had existed, or, when a predecessor to it, or to some part of it, had been passed in, perhaps, a different form. For instance, of chapter CXXVII. a considerable part appears to have been enacted at different periods; one part in 1786, others in 1791. In the old edition of the Revised Code, the law is dated December 26th, 1792.

The bottom notes of the new edition give notice, that various parts of it were in force before, although the whole had been covered by the subsequent statute of 1792. The same notes give intimation, that this law has been amended by another, of December, 1801. Again, chapter CXXVIII bears date the 26th of December, 1792. But we learn that the first clause of the statute existed in 1762, that is to say, thirty years before. The second clause, which is far the longest in the act, had been taken from a former statute, dated October, 1776. From not knowing how far back the force of these laws extended, the court was often cast into irretrievable confusion. To discover how far back a statute extended, was often a work of great time and difficulty; and perhaps the requisite apparatus of old laws could not always be had. Gentlemen of the bar assure us, that the bottom notes, which are to be found at the foot of almost every single page of this edition, are, themselves alone, fairly worth the whole price of the book. We have neither received, nor asked permission to publish the name of the supposed author of these notes. He is, however, a gentleman whose name has long been familiar to every lawyer in Virginia. He has long filled more than one interesting department in the system, and the science of jurisprudence. In point of legal knowledge and abilities, his reputation is inferior to none.

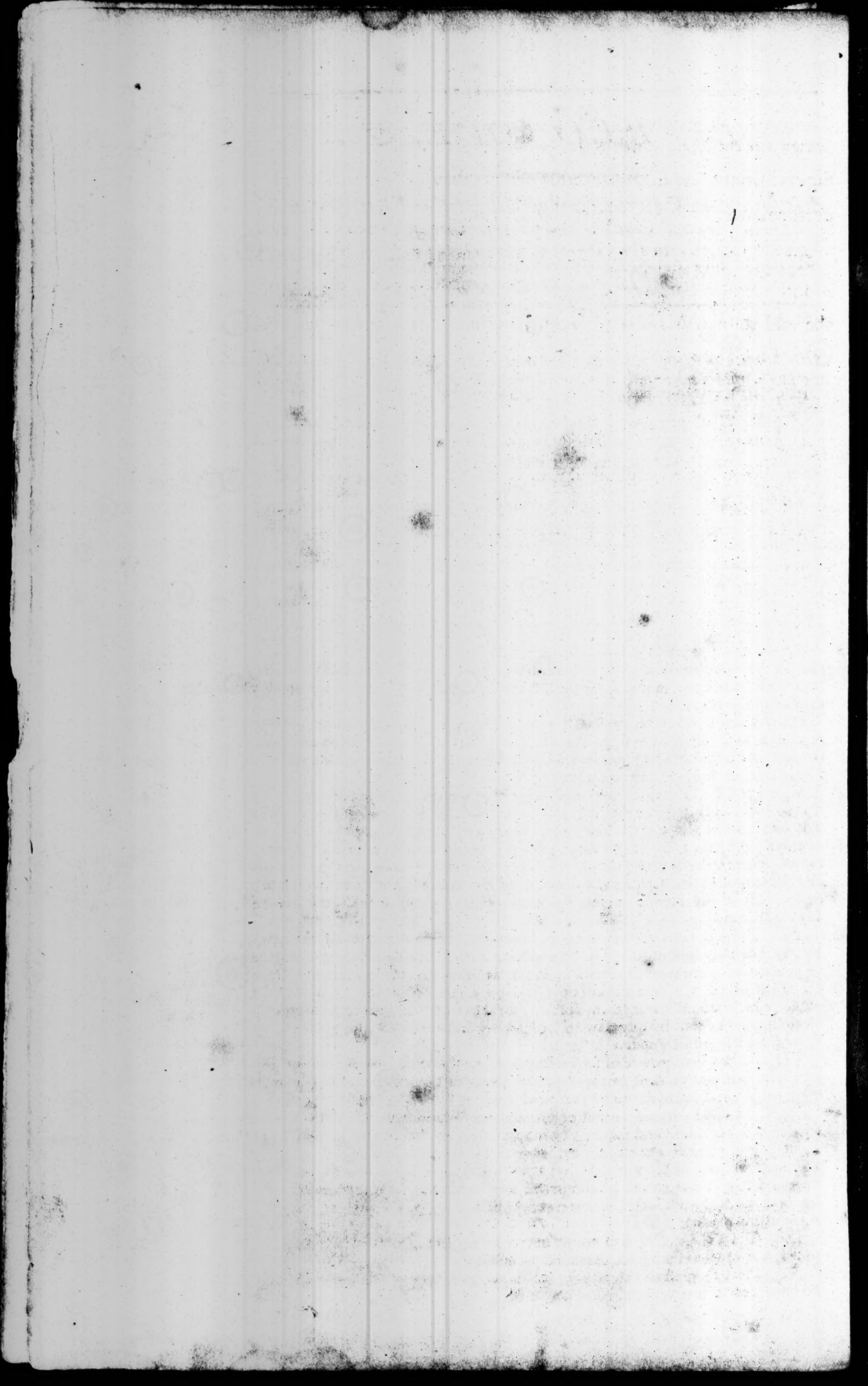
All the gentlemen of the law, with one voice, complained of the imperfection of the former index. A new one has been entirely wrote over again, and at a very considerable expence, for the present edition. In the former, there were, under the letter A, only *twenty-six* different heads. In this edition, there are *forty-nine*. In the former, letter S contained only *twenty five* heads. This has *forty-seven*. These particulars are mentioned, to shew the superior perspicuity and completeness of the present index; and how greatly it must facilitate an accurate examination of the contents of the volume. The index contains *seventy-two* pages. The text of the laws, exclusive of the preface and title page, contains as above mentioned, four hundred and fifty-four; so that there is one page of index for about every six pages of text. A larger number of references would have been useless, and have served rather to embarrass, than assist, the reader. This laborious part of the work was

drawn up by Mr. James Rind, who had been employed as an assistant, by the supervisors of the former edition. We have every reason to think that his performance will give entire satisfaction.

This volume, the index excepted, was completely printed off several months ago. But it was impossible to deliver the book till this time, because the bad state of Mr. Rind's health did not permit him to furnish the index sooner. This apology will, no doubt, be considered as sufficient for a long delay of publication, which it was impossible for the editors to prevent.

It would be the summit of frivolity to expatiate upon the importance of a work like this ; because it is plain, that every family in the commonwealth, should, if possible, possess a copy of it. To judges, magistrates and lawyers, it is indispensably necessary ; and every private gentleman, who wishes to understand either his own rights, or those of his neighbours, ought to be conversant with its contents.

RICHMOND, APRIL 1st, 1803



REVISED CODE, &c.

1776.

At a GENERAL CONVENTION of Delegates and Representatives, from the several Counties and Corporations of VIRGINIA, held at the Capitol, in the City of WILLIAMSBURG, on MONDAY, the 6th of MAY, 1776.

CHAP. I.

A Declaration of Rights made by the Representatives of the good People of VIRGINIA, assembled in full and free Convention; which rights do pertain to them, and their posterity, as the basis and Foundation of Government.

I. **T**HAT all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

II. **T**HAT all power is vested in, and consequently derived from, the people; that Magistrates are their trustees and servants, and at all times amenable to them.

III. **T**HAT government is, or ought to be, instituted for the common benefit, protection and security, of the people, nation, or community. Of all the various modes and forms of government, that is best, which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration; and that when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable, and indefeasible right, to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

IV. **T**HAT no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which not being descendible, neither ought the offices of Magistrate, Legislator, or Judge, to be hereditary.

V. **T**HAT the Legislative, and Executive powers of the state should be separate and distinct from the Judiciary; and that the members of the two first may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws shall direct.

VI. **T**HAT elections of members to serve as representatives of the people, in Assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not, in like manner, assented, for the public good.

VII. **T**HAT all power of suspending laws, or the execution of laws, by any authority without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

VIII. **T**HAT in all capital or criminal prosecutions, a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty, nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land, or the judgment of his peers.

IX. **T**HAT excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

X. **T**HAT general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or

to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

XI. THAT in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

XII. THAT the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

XIII. THAT a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural and safe defence of a free state; that standing armies, in time of peace, should be avoided, as dangerous to liberty; and that, in all cases, the military should be under strict subordination to, and governed by, the civil power.

XIV. THAT the people have a right to uniform government; and therefore, that no government separate from, or independent of, the government of *Virginia*, ought to be erected or established within the limits thereof.

XV. THAT no free government, or the blessing of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

XVI. THAT religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practise Christian forbearance, love, and charity, towards each other.

CHAP. II.

The Constitution or Form of Government, agreed to and resolved upon by the Delegates and Representatives of the several Counties and Corporations of VIRGINIA.

Preamble.

Enumerating instances
of royal misrule.

I. **W**HEREAS George the third, King of Great-Britain and Ireland, and Elector of Hanover, heretofore entrusted with the exercise of the kingly office in this government, hath endeavored to pervert the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the public good: By denying his Governors permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and, when so suspended, neglecting to attend to them for many years: By refusing to pass certain other laws, unless the persons to be benefited by them would relinquish the inestimable right of representation in the Legislature: By dissolving Legislative Assemblies repeatedly and continually, for opposing with manly firmness his invasions of the rights of the people: When dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any Legislative head: By endeavoring to prevent the population of our country, and, for that purpose, obstructing the laws for the naturalization of foreigners: By keeping among us in time of peace, standing armies and ships of war: By affecting to render the military independent of, and superior to, the civil power: By combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of Legislation: For quartering large bodies of armed troops among us: For cutting off our trade with all parts of the world: For imposing taxes on us without our consent: For depriving us of the benefits of the trial by jury: For transporting us beyond seas, to be tried for pretended offences: For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever: By plundering our seas, ravaging our coasts, burning our towns, and destroying the lives of our people: By inciting insurrections of our fellow subjects, with the allurements of forfeiture and confiscation: By prompting our negroes to rise in arms among us, those very negroes, whom, by an inhuman use of his negative, he hath refused us permission to exclude by law: By endeavoring to bring on the inhabitants of our frontiers, the merciless *Indian* savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions of existence: By transporting at this time, a large army of foreign mercenaries, to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy unworthy the head of a civilized nation: By answering our repeated petitions for redress with a repetition of injuries: And finally, by abandoning the helm of government, and declaring us

out of his allegiance and protection. By which several acts of misrule, the government of this country, as formerly exercised under the crown of *Great-Britain*, is totally dissolved.

Former government dissolved.

II. WE therefore, the Delegates and Representatives of the good people of *Virginia*, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy country must be reduced, unless some regular, adequate mode of civil polity is speedily adopted, and in compliance with a recommendation of the General Congress, do ordain and declare the future form of government of *Virginia* to be as followeth:

Another declared.

III. THE Legislative, Executive, and Judiciary departments, shall be separate and distinct, so that neither exercise the powers properly belonging to the other; nor shall any person exercise the powers of more than one of them at the same time, except that the Justices of the county courts shall be eligible to either House of Assembly.

Legislative, Executive, and Judiciary, separated, with an exception.

IV. THE Legislative shall be formed of two distinct branches, who, together, shall be a complete Legislature. They shall meet once or oftener, every year, and shall be called the General Assembly of *Virginia*.

Legislative formed of two Houses, called General Assembly, shall meet every year, once or oftener;

V. ONE of these shall be called the House of Delegates, and consist of two Representatives to be chosen for each county, and for the district of *West Augusta*, annually, of such men as actually reside in and are freeholders of the same, or duly qualified according to law; and also one Delegate or Representative to be chosen annually for the city of *Williamsburg*, and one for the borough of *Norfolk*, and a Representative for each of such other cities and boroughs as may hereafter be allowed particular representation by the Legislature; but when any city or borough shall so decrease, as that the number of persons having right of suffrage therein shall have been for the space of seven years successively less than half the number of voters in some one county in *Virginia*, such city or borough thenceforward shall cease to send a Delegate or Representative to the Assembly.

One of them to be called the House of Delegates, members of which, how qualified, and for what places chosen.

VI. THE other shall be called the Senate, and consist of twenty-four members, of whom thirteen shall constitute a House to proceed on business, for whose election the different counties shall be divided into twenty-four districts, and each county of the respective district, at the time of the election of its Delegates, shall vote for one Senator, who is actually a resident and freeholder within the district, or duly qualified according to law, and is upwards of twenty-five years of age; and the sheriffs of each county, within five days at farthest after the last county election in the district, shall meet at some convenient place, and, from the poll so taken in their respective counties, return as a Senator the man who shall have the greatest number of votes in the whole district. To keep up this Assembly by rotation, the districts shall be equally divided into four classes, and numbered by lot. At the end of one year after the general election, the six members, elected by the first division, shall be displaced, and the vacancies thereby occasioned supplied from such class or division, by new election, in the manner aforesaid. This rotation shall be applied to each division, according to its number, and continued in due order annually.

When a corporation's right to representation shall cease.

Of what number of members the other, called the Senate, shall consist, and how they shall be chosen.

VII. THAT the right of suffrage in the election of members of both Houses shall remain as exercised at present, and each House shall choose its own Speaker, appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies.

Each House may choose its Speaker and officers, and issue writs for supplying vacancies.

VIII. ALL laws shall originate in the house of Delegates, to be approved or rejected by the Senate, or to be amended with the consent of the House of Delegates, except money bills, which in no instance shall be altered by the Senate, but wholly approved or rejected.

Laws shall originate in the House of Delegates, but, if not money bills, amendable by the Senate.

IX. A GOVERNOR, or Chief Magistrate, shall be chosen annually, by joint ballot of both Houses, to be taken in each House respectively, deposited in the conference room; the boxes examined jointly by a Committee of each House; and the numbers severally reported to them, that the appointments may be entered (which shall be the mode of taking the joint ballot of both Houses in all cases) who shall not continue in that office longer than three years successively, nor be eligible until the expiration of four years after he shall have been out of that office. An adequate, but moderate salary, shall be settled on him during his continuance in office; and he shall, with the advice of a Council of State, exercise the executive powers of government according to the laws of this commonwealth; and shall not, under any pretence, exercise any power or prerogative by virtue of any law, statute, or custom of *England*: But he shall, with the advice of the Council of State, have the power

Governor, how chosen; method of balloting in this and other cases; his salary and powers; restrained from granting reprieves or pardons in certain cases.

of granting reprieves or pardons, except where the prosecution shall have been carried on by the House of Delegates, or the law shall otherwise particularly direct; in which cases, no reprieve or pardon shall be granted, but by resolve of the House of Delegates.

When he may convolve
the General Assembly.

X. EITHER House of the General Assembly may adjourn themselves respectively. The Governor shall not prorogue or adjourn the Assembly during their sitting, nor dissolve them at any time; but he shall, if necessary, either by advice of the Council of State, or on application of a majority of the House of Delegates, call them before the time to which they shall stand prorogued or adjourned.

Privy Council, number
of; their duty, power,
and time of continuance
in office.

XI. A PRIVY Council or Council of State, consisting of eight members, shall be chosen by joint ballot of both Houses of Assembly, either from their own members or the people at large, to assist in the administration of government. They shall annually choose out of their own members a President, who, in case of the death, inability, or necessary absence of the Governor from the government, shall act as Lieutenant Governor. Four members shall be sufficient to act, and their advice and proceedings shall be entered of record, and signed by the members present (to any part whereof any member may enter his dissent) to be laid before the General Assembly, when called for by them. This Council may appoint their own clerk, who shall have a salary settled by law, and take an oath of secrecy in such matters as he shall be directed by the Board to conceal. A sum of money appropriated to that purpose shall be divided annually among the members in proportion to their attendance; and they shall be incapable during their continuance in office, of sitting in either House of Assembly. Two members shall be removed, by joint ballot of both Houses of Assembly, at the end of every three years, and be ineligible for the three next years. These vacancies, as well as those occasioned by death or incapacity, shall be supplied by new elections, in the same manner.

Delegates to Congress,
how chosen.

XII. THE Delegates for *Virginia* to the Continental Congress shall be chosen annually, or superceded in the mean time by joint ballot of both Houses of Assembly.

Military regulations.

XIII. THE present militia officers shall be continued, and vacancies supplied by appointment of the Governor, with the advice of the Privy Council, or recommendations from the respective County Courts; but the Governor and Council shall have a power of suspending any officer, and ordering a court-martial, on complaint of misbehaviour or inability, or to supply vacancies of officers happening when in actual service. The Governor may embody the militia, with the advice of the Privy Council, and when embodied, shall alone have the direction of the militia under the laws of the country.

Courts of Appeals, General, of Equity, and Admiralty, judges of; Secretary, and Attorney General, how appointed; salaries of; excluded with some others, from the Legislative and Executive.

XIV. THE two Houses of Assembly shall, by joint ballot, appoint Judges of the Supreme Court of Appeals, and General Court, Judges in Chancery, Judges of Admiralty, Secretary, and the Attorney General, to be commissioned by the Governor, and continue in office during good behaviour. In case of death, incapacity, or resignation, the Governor, with the advice of the Privy Council, shall appoint persons to succeed in office, to be approved or displaced by both Houses. These officers shall have fixed and adequate salaries; and, together with all others holding lucrative offices, and all Ministers of the Gospel of every denomination, be incapable of being elected members of either House of Assembly, or the Privy Council.

Counties, Justices of, how appointed; shall nominate their clerks, recommend sheriffs and coroners to be commissioned by Executive; and appoint constables.

XV. THE Governor, with the advice of the Privy Council, shall appoint Justices of the Peace for the counties; and in case of vacancies, or a necessity of increasing the number hereafter, such appointments to be made upon the recommendation of the respective County Courts. The present acting Secretary in *Virginia*, and Clerks of all the County Courts, shall continue in office. In case of vacancies, either by death, incapacity, or resignation, a Secretary shall be appointed as before directed, and the clerks by the respective courts. The present and future clerks shall hold their offices during good behaviour, to be judged of and determined in the General Court. The Sheriffs and Coroners shall be nominated by the respective courts, approved by the Governor, with the advice of the Privy Council, and commissioned by the Governor. The Justices shall appoint Constables, and all fees of the aforesaid officers to be regulated by law.

Impeachments.

XVI. THE Governor, when he is out of office, and others offending against the state, either by mal-administration, corruption, or other means by which the safety of the state may be endangered, shall be impeachable by the House of Delegates. Such impeachment to be prosecuted by the Attorney General, or such other person or persons as the House may appoint in the General Court, according to the laws of the land. If found guilty

he or they shall be either forever disabled to hold any office under government, or removed from such office *pro tempore*, or subjected to such pains or penalties as the law shall direct.

XVII. IF all, or any of the Judges of the General Court, shall, on good grounds (to be judged of by the House of Delegates) be accused of any of the crimes or offences beforementioned, such House of Delegates may, in like manner, impeach the Judge or Judges so accused, to be prosecuted in the Court of Appeals; and he or they, if found guilty, shall be punished in the same manner as is prescribed in the preceding clause.

XVIII. COMMISSIONS and grants shall run *In the name of the Commonwealth of VIRGINIA*, and bear teste by the Governor, with the seal of the Commonwealth annexed. Writs shall run in the same manner, and bear teste by the clerks of the several courts. Indictments shall conclude, *Against the peace and dignity of the Commonwealth*.

Commissions, grants and writs, stile, and teste of. Indictments, conclusion of.

XIX. A TREASURER shall be appointed annually, by joint ballot of both Houses. Treasurer.

XX. ALL escheats, penalties, and forfeitures, heretofore going to the King, shall go to the Commonwealth, save only such as the Legislature may abolish, or otherwise provide for. Escheats, penalties, forfeitures.

XXI. THE territories contained within the charters erecting the colonies of *Maryland, Pennsylvania, North and South Carolina*, are hereby ceded, released, and forever confirmed to the people of those colonies respectively, with all the rights of property, jurisdiction, and government, and all other rights whatsoever which might at any time heretofore have been claimed by *Virginia*, except the free navigation and use of the rivers *Potomac* and *Pohomoke*, with the property of the *Virginia* shores or strands bordering on either of the said rivers, and all improvements which have been or shall be made thereon. The western and northern extent of *Virginia* shall, in all other respects, stand as fixed by the charter of King *James* the first, in the year one thousand six hundred and nine, and by the public treaty of peace between the Courts of *Great-Britain* and *France*, in the year one thousand seven hundred and sixty-three; unless, by act of Legislature, one or more territories shall hereafter be laid off, and governments established westward of the *Allegheny* mountains. And no purchase of lands shall be made of the *Indian* natives but on behalf of the public, by authority of the General Assembly. Territorial limits; cession to co-terminous states; future governments west of Mount *Allegheny*, how to be established.

No purchases from *Indian* natives, but for republic.

XXII. IN order to introduce this government, the representatives of the people met in Convention shall choose a Governor and Privy Council, also such other officers directed to be chosen by both Houses as may be judged necessary to be immediately appointed. The Senate to be first chosen by the people, to continue until the last day of *March* next, and the other officers until the end of the succeeding session of Assembly. In case of vacancies, the Speaker of either House shall issue writs for new elections.

At a General Assembly summoned to be held at the Capitol, in the City of *Williamsburg*, on the 1st Day of *August*, in the 9th Year of the Reign of *George* the Second, of *Great-Britain, France, and Ireland*, King, Defender of the Faith, &c. and from thence continued by several Proclamations to the 5th Day of *August*, in the 10th Year of his said Majesty's Reign, and in the Year of our Lord 1736.

CHAP. III.

1736.

* *An Act for confirming and better securing the Titles to Lands in the Northern Neck, held under the Right Honorable Thomas Lord Fairfax, Baron of Cameron, in that part of Great-Britain, called Scotland.*

I. WHEREAS the late King *Charles* II. by certain letters patents, under the great seal of *England*, bearing date at *Westminster*, the eighth day of *May*, in the one and twentieth year of his reign, reciting, that he, taking into his royal consideration the propagation of the *Christian* faith, and the mani-

Recital of the patent, 21 Car. 2. wherein is recited another patent of *esqueu* Regis.

* *Vide post, chap. 4. Revised Code, (1785) 110.*

Oct. 1779, chap. 18.

Oct. 1782, chap. 8.33

May 1783. chap. 38.

176. 180. 206.

1784, chap. 91. 1785, chap. 42, 47. 1786, chap. 3. 1787, chap. 38.

Acts of 1796, chap. 14.

fold benefits arising to the church of God, together with the welfare of multitudes of his loyal subjects, by the undertaking and vigorous prosecution of plantations of foreign parts, and particularly in his dominions of *America*, by his letters patent, under the great seal of *England*, bearing date at *St. Germain's en Ley*, the eighteenth day of *September*, in the first year of his reign, for the consideration therein expressed, had given, granted, and confirmed, unto *Ralph Lord Hopton*, *Henry Earl of St. Alban's*, by the then name of *Henry Lord Feryn*, *John Lord Culpeper*, *John Lord Berkeley*, of *Stratton*, by the then name of *Sir John Berkeley*, *Sir William Morton*, one of the justices of his court of *King's Bench*, by the then name of *Sir William Morton*, *Sir Dudley Wyatt*, and *Thomas Culpeper*, their heirs and assigns, forever, all that entire tract, territory, or parcel of land, situate, lying, and being in *America*, and bounded within the heads of the rivers *Rappahannock* and *Quirough*, or *Potowmac* river, the courses of the said rivers, as they are commonly called and known by the inhabitants, and descriptions of those parts, and *Chesapeake* bay, together with the rivers themselves, and all the islands within the banks of those rivers, and all woods, under woods, timber, and trees, ways, waters, and rivers, ponds, pools, water courses, fishings, streams, havens, ports, harbours, creeks, wrecks of Sea, fish royal, deer, wild beasts, and fowl, of what nature and kind soever, mines of gold and silver, lead, tin, iron, and copper, and quarries of stone and coal, which then were, or at any time thereafter should be had, coming, being, and arising, renewing, accruing, found, or taken, within the bounds or precincts aforesaid, together with the royalty of hawking and hunting, for themselves, their heirs, and assigns, servants, and tenants, in and upon the lands and premises aforesaid; saving and reserving to him, his heirs and successors, one full fifth part of all gold mines, or gold ore, and one full tenth part of all silver mines, or silver ore, thereafter to be found within the said tract or territory of land, to have, hold, and enjoy, all the said entire tract, territory, or portion of land, and all and singular other the premises, with their and every of their appurtenances, thereby granted or mentioned, or intended to be granted (except as before is excepted) to the said *Ralph Lord Hopton*, *Henry*, then *Lord Feryn*, now *Earl of St. Alban's*, *John Lord Culpeper*, *Sir John Berkeley*, now *Lord Berkeley*, of *Stratton*, *Sir William Morton*, *Sir Dudley Wyatt*, and *Thomas Culpeper*, their heirs, and assigns, forever, to their only use and behoof, and to no other use, intent, or purpose, whatsoever; yielding and paying therefore, yearly, at the feast of *St. John the Baptist*, to his said Majesty, his heirs, and successors, the sum of six pounds thirteen shillings and four pence, at the receipt of *Jamestown*, in the dominion of *Virginia*, in lieu of all services and demands whatsoever: Reciting also that the said *Ralph Lord Hopton*, *John Lord Culpeper*, *Sir Dudley Wyatt*, and *Thomas Culpeper*, being dead, and the said *Lord Hopton* having sold his estate and interest in the premises to *John Trethewey*, Esq. the said tract, territory, or parcel of land, and all and singular other the premises, had been surrendered, together with the said letters patents, to be cancelled, to the intent that his said late Majesty might grant them new letters patent thereof, with such alterations, provisoes, and clauses, as therein after is expressed, he the said late King, in consideration of the said surrender, and for and in consideration of the many and faithful services done to his late royal father, of blessed memory, and to himself, by the said *Henry Earl of St. Alban's*, *John Lord Berkeley*, *Sir William Morton*, and *John Trethewey*, Esq. and for divers other good causes and considerations, him thereunto especially moving, of his especial grace, certain knowledge, and mere motion, did give, grant, and confirm, unto the said *Henry Earl of St. Alban's*, *John Lord Berkeley*, *Sir William Morton*, and *John Trethewey*, their heirs and assigns, forever, all that entire tract, territory, or parcel of land, situate, lying, and being in *America*, and bounded by and within the head of the rivers *Tappahannock*, alias *Rappahannock*, and *Quirough*, alias *Potowmac* rivers, the courses of the said rivers, as they are commonly called and known by the inhabitants and descriptions of those parts, and *Chesapeake* bay, together with the rivers themselves, and all the islands within the banks of those rivers, and all woods, under woods, timber, and trees, ways, waters, rivers, ponds, pools, water courses, fishings, streams, havens, ports, harbours, creeks, wrecks of sea, fish royal, deer, wild beast and fowl, of what nature and kind soever, mines of gold and silver, lead, tin, iron, and copper, and quarries of stone and coal, which then were, or at any time thereafter should be had, coming, being, arising, renewing, accruing, found or taken, within the bounds or precincts aforesaid, together with the royalties of hawking and hunting, for themselves, their heirs and assigns, servants and tenants, in and upon the land and premises aforesaid, and in and upon

The death of some of the first patentees; Lord Hopton's sale; and the surrender of the first patent.

Consideration.

The grants.

every part and parcel thereof; saving, excepting, and reserving, to his said late Majesty, his heirs, and successors, one full fifth part of the whole, in five parts to be divided, of all gold mines, or gold ore, one full tenth part of all silver mines, and silver ore, thereafter to be had or found within the said tract or territory of land, to have, hold, and enjoy, all the said entire tract, territory, or portion of land, and all and singular other the premises, with their and every of their appurtenances, thereby granted or mentioned, or intended to be granted (except as before is excepted) to the said *Henry Earl of St. Alban's*, *John Lord Berkeley*, *Sir William Morton*, and *John Trethewey*, their heirs, and assigns, forever, to their only use and behoof, and to no other use, intent, or purpose, whatsoever; yielding and paying therefore, yearly, at the feast of St. *John the Baptist*, to his said late Majesty, his heirs, and successors, the sum of six pounds thirteen shillings and four pence, at the receipt of *Jamestown* in *Virginia*, in lieu of all services and demands whatsoever; with power to divide the said tract or territory of land into counties, hundreds, parishes, tithings, townships, hamlets, and boroughs, and to erect and build cities, towns, parish churches, colleges, chapels, free schools, alms houses, and houses of correction, and to endow the same, at their free wills and pleasures; and did appoint them full and perpetual patrons of all such churches so to be built and endowed, with power of electing, nominating, and presenting, any fit person to the office and place of master of any college, or schoolmaster of any school so to be founded and endowed; with power also to divide any part or parcels of the said tract or territory, or portion of lands, into manors, and to call the same after their own or any of their names, or by other name or names whatsoever, and within the same to hold a court, in the nature of a court baron, and to hold pleas of all actions, trespasses, covenants, accounts, contracts, detinues, debts, and demands whatsoever, where the debt or thing demanded exceed not the value of forty shillings of current money of *England*, and to receive and take all amerciaments, fines, commodities, advantages, perquisites, and emoluments whatsoever, to such respective court barons belonging, or in any wise appertaining: And further, to hold within the said manors a court leet, and view of frank pledge, of all the tenants, residents, and inhabitants, of the hundreds within such respective manors, to be holden twice in every year, and to erect fairs, markets, courts of pipowder, with all things incident thereto; and to erect parks for breeding, feeding, and sustenance of deer, and other wild beasts of chase: And further, the said late king, by the said charter, for himself, his heirs, and successors, did grant and give license to the said *Henry Earl of St. Alban's*, *John Lord Berkeley*, *Sir William Morton*, and *John Trethewey*, their heirs, and assigns, freely and without molestation of him, his heirs, and successors, to give, grant, or by any ways or means sell or alien, all and singular the premises by these presents granted, and every part and parcel thereof, to any person or persons being willing to contract for or buy the same; to be holden of the said *Henry Earl of St. Alban's*, *John Lord Berkeley*, *Sir William Morton*, and *John Trethewey*, their heirs, and assigns, as of any of their aforesaid manors, in free and common soccage, by fealty only, and by suit of court, or by any other lawful tenure or terms used within the kingdom of *England*, rendering and paying such rents and other lawful reservations, as shall seem fit and convenient to the said *Henry Earl of St. Alban's*, *John Lord Berkeley*, *Sir William Morton*, and *John Trethewey*, their heirs, and assigns, notwithstanding the statute, commonly called *quia emptores terrarum*, or any other statute, act, or ordinance, or provision, or any other thing, cause, or matter whatsoever, to the contrary notwithstanding: And further, the said late king, for himself, his heirs, and successors, did grant to the said patentees, their heirs, executors, and assigns, to enlarge and confirm the said letters patent, by granting to them and their heirs other new ones, with such favorable concessions and grants as might supply any defects therein contained; with this proviso, nevertheless, that the said letters patent, or any thing therein contained, should not extend, or be construed to extend, to infringe, make void, or otherways prejudice, any contract or contracts, grant or grants, whatsoever, theretofore made or granted by the Governor and Council of *Virginia*, unto any planters, or other inhabitants, then in the actual possession thereof, by virtue of any such grants made before the nine and twentieth day of *September*, in the thirteenth year of his reign; but if any part of such lands so granted should escheat, or be otherwise forfeited, then the said patentees, their heirs, and assigns, might dispose thereof, for their best benefit and advantage, at their own free wills and pleasures; with this proviso also, that so much of the said granted premises, as within the time and space of one and twenty years then next following

Habendum.

Reservation of rent.

The powers granted to the patentees.

New patent to be granted.

Proviso as to seating

Patentees not to intermeddle with military affairs.

Inhabitants subject to the payment of taxes.

And the laws of the colony.

Recital of the patent, 4 Jac. 2. which recites the beforementioned letters patents, and the sale to the Lord Culpeper.

The grant.

Habendum.

Reservation of rent.

should not be possessed, inhabited, or planted, by the means or procurement of the said patentees, their heirs, or assigns, that then the said letters patent should cease, determine, and become void; and lastly, with this further proviso, that the said patentees, their heirs, and assigns, should not act or intermeddle in the military affairs or forces of or within the said tract of land and premises thereby granted, or any part thereof, or with the government or command of any of the castles, forts, or fortifications thereof, without the order, authority, or command, of the Governor and Council of *Virginia*, for the time being, or such other person or persons as his said late Majesty, his heirs, or successors, should think fit to dispose the same; and that the Governor, Council, and Assembly of *Virginia*, for the time being, should have full power and authority to impose and lay any taxes and impositions upon the said territories thereby granted, and all the lands and premises thereby meant and intended to be granted, and all and every the possessor, inhabitants thereof, for the public and common defence of the said colony of *Virginia*, and the territory and lands thereby granted, as upon other parts of *Virginia*, proportionably, when and as often as the necessity of the said colony should require the same for the common good; and that the said patentees, their heirs, and assigns, and other inhabitants of or in the premises, should be in all things subject and obedient to such laws and constitutions as were or should be made by the said Governor, Council, and Assembly, for or concerning the said colony, or the government thereof; any thing therein before contained to the contrary notwithstanding, as in the said letters patent more fully is contained.

II. AND whereas the late King *James II.* by other letters patent, under the great seal of *England*, bearing date at *Westminster*, the seven and twentieth day of *September*, in the fourth year of his reign, reciting the above recited letters patents; and that the said former patentees, their heirs, and assigns, had, by good and sufficient conveyance and assurance in the law, for valuable considerations, sold, conveyed, and assured, the said whole tract, territory, and portion of land, and all and singular the premises, and every part and parcel thereof, and all their estate, right, title, and interest therein, together with the said letters patents, unto *Thomas Lord Culpeper*, eldest son and heir of *John* late Lord *Culpeper*, deceased, his heirs, and assigns, forever, who was thereby become sole owner and proprietor thereof, in fee simple, for the considerations therein mentioned, and did give, grant, and confirm, unto the said *Thomas Lord Culpeper*, all that entire tract, territory, or parcel of land, situate, lying, and being in *Virginia*, in *America*, and bounded by and within the first heads or springs of the rivers of *Tappahannock* (alias *Rappahannock*) and *Quiricough* (alias *Patowmack*) rivers, the courses of the said rivers, from their said first heads or springs, as they were commonly called and known by the inhabitants, and descriptions of those parts, and the bay of *Chesapeake*, together with the said rivers themselves, and all the islands within the uttermost banks thereof, and the soil of all and singular the premises, and all lands, woods, under woods, timber, and trees, ways, mountains, swamps, marshes, waters, rivers, ponds, pools, lakes, water courses, fishings, streams, havens, ports, harbours, bays, creeks, ferries, with all sorts of fish, as well whales, sturgeons, and other royal fishes, as all others whatsoever, wrecks of sea, *Floatson*, *Jetson*, and *Lagan*, and all sorts of deer, wild beasts, and fowl, of what nature or kind soever, and all manner of deodands, goods of felons and fugitives, treasures trove, waifs, strays, fines, forfeitures, escheats, advowsons, royalties, and hereditaments whatsoever, with all mines of gold and silver, lead, tin, iron, and copper, and all quarries of stone and coal, within the limits and precincts aforesaid, which then were, or at any time thereafter should be had, coming, being, arising, growing, renewing, accruing, found, or taken, within the bounds, limits, precincts, or places aforesaid; saving, excepting, and reserving, to his said late Majesty, his heirs, and successors, one full fifth part of all gold mines, or gold ore, and one full tenth part of all silver mines, and silver ore, then being, or which thereafter should be had or found, within the said tract or territory of land; to have, hold, and enjoy, all the said entire tract, territory, or portion of land, and every part and parcel thereof, and all and singular other the premises, with their and every of their appurtenances thereby granted or mentioned, or intended to be granted (except as before is excepted) to the said *Thomas Lord Culpeper*, his heirs, and assigns, forever, to his and their only use and behoof, and to no other use, intent, or purpose whatsoever; yielding and paying therefore, yearly, from thenceforth, on the feast of *St. John the Baptist*, to his said late Majesty, his heirs, and successors, the sum of six pounds thirteen shillings and four pence, at the receipt of

Jamestown, in the colony of *Virginia*, in lieu of all services and demands whatsoever, the first payment to be made on the feast day of St. *John* the Baptist next ensuing the date of the said letters patent: And his said late Majesty did thereby for himself, his heirs, and successors, further give, grant, ratify, and confirm to the said *Thomas Lord Culpeper*, his heirs, and assigns, for ever, all and singular the grants, powers, authorities, privileges, licenses, and clauses, in the said herein before recited letters patents mentioned, granted, or conveyed, in as large and ample manner, to all intents and purposes whatsoever, as if the same, and every of them, had been particularly granted and expressed in these his letters patent, except only the abovementioned proviso; and his said late Majesty did further, of his especial grace, certain knowledge, and mere motion, for himself, his heirs, and successors, fully and absolutely, for ever, release and discharge the said abovementioned proviso, and every part thereof, and every matter and thing therein contained, in as large and ample manner, to all intents and purposes whatsoever, as if the same had never been made, thereby declaring the same to be null and void; and the said *Thomas Lord Culpeper*, his heirs, and assigns, and the tract, territory, and premises, and every part thereof, to be for ever freed, cleared, and discharged, from the same, so and in such manner that the said *Thomas Lord Culpeper*, his heirs, and assigns, might freely and absolutely enter into, have, hold, occupy, possess, and enjoy, the said tract, territory, and all and singular other the premises, freed and discharged of the said proviso, and all right, title, and equity, thereupon to be had, in as large, ample and beneficial manner, to all intents and purposes, as if the same proviso had been never had or made, any thing in the said recited letters patent, or any thing therein, or in the last mentioned letters patent, to the contrary thereof, in any wise notwithstanding, as in the said last recited letters patent is more fully contained.

III. AND whereas the Right Honourable *Thomas Lord Fairfax*, baron of *Cameron*, in that part of *Great-Britain* called *Scotland*, heir at law to the said *Thomas Lord Culpeper*, is now become sole proprietor of the said territory, with the appurtenances, and the above recited letters patents; and whereas divers great quantities of land have been granted to adventurers and planters within the said territory, in fee simple, by the agents and attornies of the said *Lord Fairfax*, and his predecessors, former proprietors of the said territory, and letters patents, by virtue of divers letters of attorney, from time to time, by them respectively given and granted to their said attornies and agents, but now of late, after long possessions, and great and valuable improvements made upon the said lands, by such grantees, questions are like to arise between them and the said present proprietor touching the validity of such grants, as well in respect to a construction set up and maintained, of the said letters of attorney, that the powers therein contained were not full and sufficient to enable and warrant the said agents and attornies to pass away estates in fee simple, as in respect of the said *Lord* proprietor's estate in the premises, the same being now held by him as tenant in tail, under the will or wills of some of his ancestors, whereby the minds of many of his Majesty's good subjects, possessors of lands and tenements within the said territory, are greatly disquieted, and many controversies and expensive lawsuits may probably ensue: For the prevention whereof, and for settling peace between his Lordship and his said tenants,

IV. BE it enacted, by the Lieutenant Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, that from henceforth all and every grant and grants, heretofore duly and regularly made and passed by any of the agents or attornies of the proprietors of the said territory, or any of them, shall be good, available, and binding in law, to pass such estate or estates as therein have been granted; and the grantees, their heirs, and assigns, respectively, shall for ever hereafter peaceably and quietly have, hold, and enjoy, the same granted premises, according to such granted estates, under the rents and services by the said grants reserved, notwithstanding the infancy, coverture, or any misprision or mistake of the names, dignity, or title, of the said proprietors, or either of them, or any mis-recital, omission, or defect, in the said grant or grants, or any of them, so as the same have been made and signed by the agents or attornies of the said proprietors, or the husband, guardian or guardians, trustee or trustees, of any of them, and passed under the common seal of the office kept by them for that purpose.

That the validity of grants made by the agents or attornies of the present proprietor and his predecessors have been questioned.

A confirmation of these grants.

At a *General Assembly* begun and held at the College in *Williamsburg*, the 27th Day of *October*, in the 2^d Year of the Reign of *George the Second*, by the Grace of God, of *Great-Britain, France, and Ireland*, King, Defender of the Faith, &c. and in the Year of our Lord 1748.

CHAP. IV.

An Act for confirming the Grants made by his Majesty within the Bounds of the Northern Neck, as they are now established.*

Preamble.

I. **W**HEREAS in the late dispute and controversy touching the limits and boundaries of the several letters patent granted by their late Majesties King *Charles the Second*, and King *James the Second*, unto the ancestors of the Right Honourable *Thomas Lord Fairfax*, it hath been adjudged and determined by his present Majesty in Council, that the said letters patent do include all that tract or territory of land between the rivers *Potowmac* and *Rappahannock*, and the line now marked from the head spring of the said river *Potowmac*, to the head spring of *Rappahannock*, commonly called the *Conway*, in which said tract or territory of land, as is before described, many adventurers and planters have taken up great quantities of land, and obtained grants and patents thereof from the Crown, under seal of this colony; and whereas the said *Thomas Lord Fairfax* hath consented before the King, in Council, that the several grants and patents, made by the Crown, of the lands included in the boundary aforesaid, should be confirmed to the several grantees, their heirs and assigns, to be held nevertheless of the said Lord *Fairfax*, under the like rents, services, profits, and emoluments, as should be paid, done, and arise, by and from the said grants made by the Crown:

Grants from the Crown of lands in the Northern Neck confirmed, but the rents and services shall be to the Lord *Fairfax* and his heirs.

II. *BE it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, that all grants and patents whatsoever under the seal of this colony, for lands situate and lying within the limits and boundaries of the letters patent granted to the ancestors of the said Lord Fairfax, as the same are now settled and determined, heretofore made and granted by the Crown, shall be held, deemed, and taken, to be valid and effectual; and the adventurers and planters to whom the same were granted, their heirs and assigns, shall for ever hereafter peaceably and quietly have, hold, and enjoy the said granted premises, respectively, according to such granted estates, under the rents and services in the said grants reserved, to be paid and performed to the said Thomas Lord Fairfax, his heirs and assigns for ever, any mis-recital or defect in the said grants notwithstanding.*

IN THE THIRD YEAR OF THE COMMONWEALTH.

1778

At a *General Assembly*, begun and held at the *CAPITOL*, in the City of *Williamsburg*, on *Monday*, the 5th day of *October*, in the Year of our Lord 1778.

CHAP. V.

An Act to empower the freeholders of the several Towns not incorporated, to supply the Vacancies of the Trustees and Directors thereof.†

[Passed the 11th of December, 1778.]

Vacancies shall be supplied by election of freeholders summoned by sheriff upon notice; who shall certify to court the names of the elected.

I. **B**E it enacted by the *General Assembly*, That upon the death, removal out of the country, or other legal disability of any one or more of the Trustees and Directors of the several towns within this state not incorporated, such vacancy, so often as the same shall happen, shall hereafter be supplied in manner following, that is to say: The surviving Trustees and Directors, or one of them, shall give immediate notice of such vacancy to the sheriff of the county wherein such town may be, who within twenty days thereafter shall notify the same to the freeholders of the said town, in such manner as he may think best, requiring them to appear at a certain place therein, and on a certain day, not less than ten days thence next following, then and there to elect a

* *Vide ante, chap. 3, and notes thereto.* † *Revised Code, 1785, pa. 87.*

Trustee in the room of the one so dying, removing, or disabled. The sheriff shall attend and take the poll at such election, entering the names of the persons voted for in a distinct column, and the name of every freeholder giving his vote under the name of the person he votes for; and when no freeholders appear to vote, the sheriff shall close the poll, and return the same to the next Court to be held for his County, upon oath, certifying the name of the person elected, to be by the Clerk recorded.

II. EVERY person elected in manner directed by this act, shall, to all intents and purposes, be a Trustee of the town for which he was chosen.

III. SO much of all Acts of Assembly as are contrary to the purview and meaning of this Act, are hereby repealed.

At a General Assembly, begun and held at the Public Buildings, in the Town of Richmond, on Monday, the 6th Day of May, in the Year of our Lord 1782.

1782.

CHAP. VI.

An Act concerning Wrecks.

[Passed the 20th of June, 1782.]

I. **W**HEREAS many vessels, have been and may hereafter be stranded on the sea coast, bay or river shores within this Commonwealth, and the goods or other property belonging to such vessels may be embezzled and stolen, to the great injury of the owners: For remedy whereof, *Be it enacted by the General Assembly*, That it shall be lawful for the Governor, with advice of Council, and he is hereby required, to appoint and commission two discreet persons in each of the counties bordering on the sea or bay shores in this state, whose business and duty it shall be, on the earliest intelligence, or on application to them made, by or on behalf of any owner or commander of a ship or other vessel, being in danger of being stranded, or being stranded, to command any Constable or Constables, to be appointed by them for that purpose, nearest the coast where such ship or vessel shall be in danger, to summon as many men as shall be thought necessary to the assistance of such ship or vessel; and if there shall be any ship or vessel belonging to the State riding near the place, the Commissioner or Commissioners shall have power to demand of the commanding officer of such ship or vessel, assistance by their boats and such hands as they can conveniently spare; and if any commanding officer shall neglect to give such assistance, he shall forfeit one hundred pounds, to be recovered by the officer or owner of the ship in distress, with costs, in any Court of Record within this Commonwealth. The Commissioner or Commissioners, and the commanding officer of any ship or vessel, and all others who shall assist in preserving any ship or other vessel in distress, or their cargoes, shall, within forty days, be paid a reasonable reward by the commander or owner of the ship or other vessel in distress, or by the merchant whose vessel or goods shall be saved; and in default thereof, the vessel or goods shall remain in the custody of the Commissioner or Commissioners until all charges be paid, or security given for that purpose, to the satisfaction of the parties. And in case the parties shall disagree, touching the monies deserved by the persons employed, it shall be lawful for the commander of such vessel saved, or the owner of the goods, or merchant interested, to choose one indifferent person, and also for the Commissioner or Commissioners to nominate one other indifferent person, who shall adjust the *quantum* of the gratuities to be paid to the several persons, and such adjustments shall be binding on all parties, and to be recoverable with costs in any Court of Record within this Commonwealth, by action on the case. If no person shall claim the goods saved, the Commissioners, or one of them, shall take possession thereof, and cause a true description of the marks, numbers, and kinds of such goods to be advertised four weeks in the *Virginia Gazette*, and if no person shall claim the same within three months, public sale shall be made thereof, (but if perishable, the goods shall be forthwith sold) and after charges deducted, the residue of the money, with an account of the whole, shall be transmitted to the Treasurer, who shall keep an account of the same, for the benefit of the owners, who upon proof of his property to the satisfaction of the Auditors, shall upon their warrant receive the same. If any person, besides those empowered by the Commissioners, or one of

Preamble.

Commissioners to be appointed on the sea and bay shores.

Their duty on intelligence of a vessel stranded or in danger.

Those who assist in saving a vessel or cargo to have a reward;

and may retain vessel or goods till reward paid or secured.

Reward how to be ascertained.

Proceeding if the goods saved be not claimed.

Penalty on those who

intermeddle without
power from Commis-
sioners.

Or hinder those em-
ployed in saving the
goods.

Or deface the marks.

Commissioners may re-
pel force by force.

Goods carried from a
vessel in distress, and
found in any person's
possession, to be restored.

Penalty.

Death to make a hole
in a vessel in distress.

Or steal pump materials
or goods; or do any
thing tending to the loss
of the vessel.

Penalty on Commis-
sioner abusing his trust;

and on constable and af-
sistants for neglect.

Act to be set up in each
courthouse.

Commissioners to give
bond and security.

If vessel totally lost,
goods saved to pay no
duty.

If vessel cast on shore,
and the damage on the
goods not more than ten
per cent. goods to be
entered and pay duty.

them, shall enter or endeavor to enter on board any vessel in distress, without the leave of the commanding officer, or in case any person shall molest them in saving the vessel or goods, or shall endeavor to hinder the saving such vessel or goods, or shall deface the marks of any such goods before they be taken down in a book by the Commissioners, or one of them, every such person shall forfeit and pay the sum of ten pounds, to be recovered with costs, by information in any Court of Record within this Commonwealth, and applied to the use of the owners of the vessel or goods, as the case may be; and in case of failure, to pay such forfeiture immediately, or giving security to pay the same within one month, he, she, or they, shall receive ten lashes on his, her, or their bare back, by order of such Court. It shall be lawful for any commanding officer of a vessel in distress, or the Commissioners, to repel by force any persons as shall, without consent as aforesaid, press on board any vessel in distress, and thereby molest them in preserving the vessel or goods; and in case any goods shall be found upon any person that were stolen or carried off from any vessel in distress, the person on whom such goods be found, shall, upon demand, deliver the same to the owner or Commissioners, or to such other person as shall be authorized by the Commissioners or owner to receive such goods, or shall be liable to pay treble the value, to be recovered, with costs, in any Court of Record. If any person shall make or be assisting in making a hole in any vessel in distress, or steal any pump, materials, or goods, or shall be aiding in stealing such pump, materials, or goods, from any vessel, or shall wilfully do any thing tending to the immediate loss of such vessel, such person shall be guilty of felony, and suffer death without benefit of clergy; any Commissioner by fraud or wilful neglect, abusing the trust reposed in him, shall, upon conviction thereof, forfeit and pay treble damages to the party aggrieved, to be recovered, with costs, by action on the case in any Court of Record, and shall thenceforth be incapable of acting as a Commissioner. Any Constable, or person, summoned by him, refusing or neglecting to give the assistance required for the saving of any vessel or her cargo, shall forfeit and pay twenty-five shillings, to be recovered before any Justice, by the Commissioners ordering the duty; and shall be moreover subject to the payment of the same damages, and to be recovered by the party aggrieved in the same manner, as in the case of a Commissioner. The Commissioners shall set up a copy of this Act once in every year in each of the Courthouses of the Counties wherein they respectively reside.

II. *PROVIDED* always, and be it further enacted, That the Commissioners appointed by virtue of this act, shall respectively give bond and security in the Court of the County where he resides, in the sum of one thousand pounds, for the due and faithful execution of his office, and that it shall not be lawful for such Commissioner, or any of them, to enter upon the duties of his office before he gives bond and security as aforesaid.

III. *AND* be it further enacted, That where any vessel shall be stranded and totally lost, goods saved from the wreck shall not be liable to entry and duties; but if any vessel be drove or cast on shore, and the damage sustained on the goods does not appear to exceed ten *per centum*, in the judgment of the Commissioners, such goods shall be duly entered with the Naval Officer nearest the place where the case happened, according to law.*

1783.

At a General Assembly, begun and held at the Public Buildings, in the City of Richmond, on Monday, the 20th Day of October, in the Year of our Lord 1783.

CHAP. VII.

An Act to authorize the Delegates of this State in Congress, to convey to the United States in Congress assembled, all the Right of this Commonwealth to the Territory North Westward of the River OHIO.†

[Passed the 20th of December, 1783.]

Preamble.

I. **W**HEREAS the Congress of the United States did, by their Act of the sixth day of September, in the year one thousand seven hundred and eighty, recommend to the several States in the Union, having claims to waste

* This clause repealed by Congress U. S. † *Vide post*, chap. 40.

and unappropriated lands in the Western Country, a liberal Cession to the United States, of a portion of their respective claims for the common benefit of the Union.

II. AND whereas this Commonwealth did, on the second day of *January*, in the year one thousand seven hundred and eighty-one, yield to the Congress of the United States, for the benefit of the said States, all right, title, and claim, which the said Commonwealth had to the territory North-west of the river *Ohio*, subject to the conditions annexed to the said act of Cession.

III. AND whereas the United States in Congress assembled, have, by their Act of the thirteenth of *September* last, stipulated the terms on which they agree to accept the cession of this State, should the Legislature approve thereof, which terms, although they do not come fully up to the propositions of this Commonwealth, are conceived on the whole, to approach so nearly to them, as to induce this State to accept thereof, in full confidence that Congress will, in justice to this State for the liberal Cession she hath made, earnestly press upon the other States claiming large tracts of waste and uncultivated territory, the propriety of making cessions equally liberal for the common benefit and support of the Union: Be it enacted by the General Assembly, that it shall and may be lawful for the Delegates of this State to the Congress of the United States, or such of them as shall be assembled in Congress, and the said Delegates, or such of them so assembled, are hereby fully authorised and empowered, for and on behalf of this State, by proper deeds or instrument in writing, under their hands and seals, to convey, transfer, assign, and make over unto the United States in Congress assembled, for the benefit of the said States, all right, title, and claim, as well of soil as jurisdiction, which this Commonwealth hath to the territory or tract of country within the limits of the *Virginia* charter, situate, lying, and being to the North-west of the river *Ohio*, subject to the terms and conditions contained in the before recited Act of Congress, of the thirteenth day of *September* last, that is to say: Upon condition that the territory so ceded shall be laid out and formed into States, containing a suitable extent of territory, not less than one hundred, nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit; and that the States so formed, shall be distinct Republican States, and admitted members of the Federal Union, having the same rights of sovereignty, freedom, and independence, as the other States; that the necessary and reasonable expenses incurred by this State in subduing any *British* posts, or in maintaining forts or garrisons within and for the defence, or in acquiring any part of the territory so ceded or relinquished, shall be fully reimbursed by the United States; and that one Commissioner shall be appointed by Congress, one by this Commonwealth, and another by those two Commissioners, who, or a majority of them shall be authorised and empowered to adjust and liquidate the account of the necessary and reasonable expenses incurred by this State, which they shall judge to be comprised within the intent and meaning of the Act of Congress of the tenth of *October*, one thousand seven hundred and eighty, respecting such expenses. That the *French* and *Canadian* inhabitants, and other settlers of the *Kaskaskies*, *St. Vincents*, and the neighbouring villages, who have professed themselves citizens of *Virginia*, shall have their possessions and titles confirmed to them, and be protected in the enjoyment of their rights and liberties. That a quantity not exceeding one hundred and fifty thousand acres of land, promised by this State, shall be allowed and granted to the then Colonel, now General *George Rogers Clarke*, and to the officers and soldiers of his regiment, who marched with him when the posts of *Kaskaskies* and *St. Vincents* were reduced, and to the officers and soldiers that have been since incorporated into the said regiment, to be laid off in one tract, the length of which not to exceed double the breadth, in such place on the North-west side of the *Ohio* as a majority of the officers shall choose, and to be afterwards divided among the said officers and soldiers in due proportion according to the laws of *Virginia*. That in case the quantity of good lands on the South-east side of the *Ohio*, upon the waters of *Cumberland* river, and between the *Green* river and *Tennessee* river, which have been reserved by law for the *Virginia* troops upon Continental establishment, should, from the *North-Carolina* line bearing in further upon the *Cumberland* lands than was expected, prove insufficient for their legal bounties, the deficiency should be made up to the said troops in good lands, to be laid off between the rivers *Scioto* and *Little Miami*, on the North-west side of the river *Ohio*, in such proportions as have been engaged to them by the laws of *Virginia*. That all the lands within the territory so ceded to the United States, and not reserved for or appropriated to any of the beforementioned purposes, or disposed

Delegates empowered to convey.

Conditions:

Reservations:

All the lands ceded to be a common fund for

the members of the Federal alliance, and for no other use.

Three members at least to execute the trust.

of in bounties to the officers and foldiers of the *American* army, shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become members of the Confederation or Federal Alliance of the said States, *Virginia* inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever. *Provided*, that the trust hereby reposed in the Delegates of this State shall not be executed unless three of them, at least, are present in Congress.

General Assembly, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 17th Day of *October*, in the Year of our Lord 1785.

CHAP. VIII.

*An Act for securing to the Authors of Literary Works, an exclusive Property therein for a limited Time.**

[Passed the 21st of November, 1785.]

Exclusive right of printing their books vested in authors for a limited time.

Penalty on persons printing, importing, or publishing such books.

Authors to register titles of their books with the Clerk of the Councils

I. **BE** it enacted by the General Assembly, That the author of any book or pamphlet already printed, being a citizen of any one of the United States, who has not transferred to any other person or persons, the copy or copies of such book, or pamphlet, share, or shares thereof, his heirs and assigns, or the person or persons who have purchased or acquired such copy or copies, share or shares, in order to print or re-print the same, his heirs and assigns, shall have the exclusive right of printing and re-printing such book or pamphlet, within this Commonwealth, for the term of twenty-one years, to be computed from the first publication thereof; and that the Author of any book or pamphlet already composed and not printed or published, or that shall hereafter be composed, being a Citizen, as aforesaid, his heirs and assigns, shall have the exclusive right of printing and re-printing such book or pamphlet, within this Commonwealth, for the like term of twenty-one years, to be computed from the first publication thereof. And if any person or persons whatsoever, shall print, re-print, or cause to be printed or re-printed, within this Commonwealth, any such book or pamphlet; or shall import into this Commonwealth, from any foreign Kingdom or State, any printed or re-printed copies of such book or pamphlet, without the consent of the Author or Proprietor thereof, first obtained in writing, signed in presence of two credible witnesses at least; or who, knowing the same to be so printed, re-printed, or imported, without such consent first had and obtained, shall publish, sell, or expose to sale, or cause to be published, sold, or exposed to sale, any copy or copies of any such book or pamphlet; the person or persons offending herein, shall forfeit to the party injured, double the value of all the copies so printed, re-printed, or imported; or so published, sold, or exposed to sale; to be recovered at the suit of such party, in any Court of Record within this Commonwealth.

II. *PROVIDED* nevertheless, That no person shall be entitled to the benefit of this Act, until he shall have registered the title of such book or pamphlet with the Clerk of the Council, and procured a certificate of such registry from the said Clerk; which certificate the Clerk is hereby required to give, taking only three shillings for his trouble.

CHAP. IX.

An Act for the appointment of Harbour-Masters, and declaring their duty.

[Passed the 25th of November, 1785.]

Preamble,

How to be appointed and qualified,

I. **WHEREAS** it is represented that the appointment of Harbour-Masters would tend to the preservation of order and regularity in the several ports and harbours within this Commonwealth:

II. *BE* it enacted, That the County and Corporation Courts within this State, shall, and they are hereby authorised and empowered, to appoint so many persons as they may think necessary, to act as Harbour-Masters within their

* *Vide laws U. S. 1st Cong. 2d sess. chap. 7. 2d Cong. 2d sess. chap. 55. Constitution U. S. art. 1, sec. 8.*

respective jurisdictions. And the person or persons so to be appointed, shall, previous to the entering on the said office, take the following oath before their County or Corporation Court: "I *do swear, that I am a Citizen of the Commonwealth of Virginia, and that I will well and truly perform the duty of Harbour-Master to the best of my skill and judgment, without favor, affection, or partiality. So help me GOD.*"

III. *AND be it further enacted,* That the Harbour-Masters to be appointed by virtue of this Act, shall have full and ample power to cause all ships and other vessels that may come within his district, to moor in such places as he shall judge most conducive for the general safety, and shall moreover direct the Masters or Commanders of vessels to rig in their jib-booms, or any other spars which may tend to obstruct the navigation. Any Master or Commander refusing to observe and comply with the said directions, shall forfeit and pay the sum of fifteen pounds, to the use of the Commonwealth; and shall moreover be subject for any damages that may accrue in consequence of such refusal, to be recovered in any Court of Record within this Commonwealth.

Their powers:

Penalty on master of a vessel refusing to comply with their directions.

IV. *AND be it further enacted,* That the Harbour-Master shall cause every ship or other vessel that may come within his district, to be properly moored within twenty-four hours after their several arrivals. Any Harbour-Masters failing to give directions for the mooring of any vessels within the time prescribed by this Act, shall forfeit and pay fifteen pounds, for the use of the Commonwealth, to be recovered, by motion before the County or Corporation Court (as the case may be) on ten days previous notice, and shall moreover be liable to the action of the party injured for any damages sustained in consequence of such neglect. And the Harbour-Masters shall moreover attend to the unmooring of all ships and other vessels within their respective districts; and in case any vessel moored, shall, by stress of weather or other accident, be drove from her mooring, the Harbour-Master shall attend to the re-mooring the same, and be entitled to half fees for such service.

Their duties:

V. *AND be it further enacted,* That the Harbour-Masters shall demand, and be entitled to receive from all Masters or Commanders of square-rigged vessels, the sum of ten shillings, and for all schooners and sloops, the sum of six shillings, and no more: *Provided nevertheless,* That no Master or Commander of any river or bay craft, shall be subject to the payment of any fee by this Act imposed.

And fees.

VI. THIS Act to commence and be in force from and after the first day of January, one thousand seven hundred and eighty-six.

Commencement of this act.

CHAP. X.

An Act to prevent Frauds and Perjuries.

[Passed the 30th of November, 1785.*]

I. *BE it enacted by the General Assembly,* That no action shall be brought whereby to charge any Executor or Administrator upon any special promise to answer any debt or damages out of his own estate, or whereby to charge the defendant upon any special promise to answer for the debt, default, or miscarriage of another person, or to charge any person upon any agreement made upon consideration of marriage, or upon any contract for the sale of lands, tenements, or hereditaments, or the making any lease thereof for a longer term than one year, or upon any agreement which is not to be performed within the space of one year from the making thereof, unless the promise or agreement upon which such action shall be brought, or some memorandum or note thereof shall be in writing, and signed by the party to be charged therewith, or some other person by him thereunto lawfully authorized.

Certain contracts, agreements, & promises, not binding, unless made in writings

II. EVERY gift, grant, or conveyance of lands, tenements, hereditaments, goods or chattels, or of any rent, common, or profit out of the same, by writing, or otherwise, and every bond, suit, judgment or execution, had or made, and contrived of malice, fraud, covin, collusion, or guile, to the intent or purpose to delay, hinder, or defraud creditors of their just and lawful actions, suits, debts, accounts, damages, penalties, or forfeitures, or to defraud or deceive those who shall purchase the same lands, tenements, or hereditaments, or any rent, profit, or commodity out of them, shall be from henceforth deemed and taken (only as against the person or persons, his, her, or their heirs, successors, exe-

Conveyances of lands or goods, and bonds, suits, judgments, and executions to defraud creditors, void as to them

Conveyances of goods, not on valuable consideration, to be deemed fraudulent unless by will or deed, and proved and recorded.

In what cases of loans of goods, the absolute right shall be deemed to be in the possessor.

Lands or goods bona fide sold and conveyed, excepted out of this act.

Commencement of this act.

cutors, administrators, or assigns, and every of them, whose debts, suits, demands, estates, interests, by such guileful and covinous devices and practices, as is aforesaid, shall or might be in any wise disturbed, hindered, delayed or defrauded,) to be clearly and utterly void, any pretence, colour, feigned consideration, expressing of use, or any other matter or thing to the contrary notwithstanding. And moreover, if a conveyance be of goods and chattels, and be not on consideration deemed valuable in law, it shall be taken to be fraudulent within this Act, unless the same be by will duly proved and recorded, or by deed in writing acknowledged or proved, if the same deed include lands also, in such manner as conveyances of land are by law directed to be acknowledged or proved, or if it be of goods and chattels only, then acknowledged or proved by two witnesses in the General Court, or Court of the County, wherein one of the parties lives, within eight months after the execution thereof, or unless possession shall really and *bona fide* remain with the donee; and in like manner where any loan of goods and chattels shall be pretended to have been made to any person with whom, or those claiming under him, possession shall have remained by the space of five years without demand made, and pursued by due process at law on the part of the pretended lender, or where any reservation or limitation shall be pretended to have been made of a use or property, by way of condition, reversion, remainder, or otherwise, in goods and chattels, the possession whereof shall have remained in another as aforesaid, the same shall be taken as to the creditors and purchasers of the persons aforesaid, so remaining in possession, to be fraudulent within this Act, and that the absolute property is with the possession, unless such loan, reservation, or limitation of use or property, were declared by will or by deed, in writing proved, and recorded as aforesaid.*

III. THIS Act shall not extend to any estate or interest in any lands, goods, or chattels, or any rents, common, or profit out of the same, which shall be upon good consideration, and *bona fide*, lawfully conveyed or assured to any person or persons, bodies politic or corporate.

IV. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty-seven.

CHAP. XI.

An Act to prevent the Circulation of private Bank Notes.

[Passed the 2d of December, 1785.†]

Penalty on persons circulating bills or notes payable to the bearer.

I. **B**E it enacted by the General Assembly, That it shall not be lawful for any person to offer in payment, a private bank bill or note for money, payable to bearer; and whosoever shall offend herein, shall not only forfeit to the informer ten times the value of the sum mentioned in such bill or note, but may be apprehended by warrant of a justice, and, upon due proof of the fact made to him, or upon his own acknowledgment thereof, be bound to the good behaviour, or if he afterwards offend in the like manner, it shall be deemed a breach of the condition of the recognizance.

Commencement of this act.

II. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty-seven.

CHAP. XII.

An Act concerning Aliens.

[Passed the 3d of December, 1785.†]

When they must leave the State;

I. **B**E it enacted by the General Assembly, That in case that war arise betwixt the United States of America and any foreign State, the merchants and people of such State, their families, agents, and servants, found in this Commonwealth, at the beginning of the war, shall not be attached either in their body or goods because of such war, but shall be warned by Proclamation from the Governor, taking thereon the advice of the Council of State, that they shall depart the Commonwealth with their families, agents, and servants, aforesaid, and their goods, freely within forty days after the Proclamation made and pub-

* *Vide post*, pa. 165. † 1785, chap. 70. ‡ 1785, chap. 81.

lished. In the meantime they shall not be impeached, nor let of their passage, or of making their profit of the same merchandizes, if they will sell them. And in case that for default of wind or of ship, or for sickness, or for other evident cause, they cannot depart the Commonwealth within so short a time, then they shall have other forty days, or so much more as the necessity of their affairs may require, and the Governor and Council may think it safe to allow, and in the mean time may sell their merchandize as afore is said.

II. BUT if before their departure credible intelligence shall be brought to the Governor, that the merchants or people of any of the United States be evil treated in the land making war against us, then they shall be attached, without harm of body or goods, until the truth of the matter be certainly known unto the Governor and Council of State: And if the merchants and people of the United States be well treated there, theirs shall be likewise with us: And if otherwise, theirs shall be treated or demeaned within the Commonwealth, in the manner, form, and condition as the merchants or people of the United States be treated or demeaned in the land making war against us.

III. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty seven.

and how they shall be treated in case of war with the state of which they are citizens

Commencement of this act.

CHAP. XIII.

An Act providing that wrongful Alienations of Lands shall be void so far as they be wrongful.

[Passed the 5th of December, 1785.†]

I. **B**E it enacted by the General Assembly, That all alienations and warranties of lands, tenements, and hereditaments, made by any, purporting to pass or assure a greater right or estate than such person may lawfully pass or assure, shall operate as alienations or warranties of so much of the right and estate in such lands, tenements, or hereditaments, as such person might lawfully convey; but shall not pass or bar the residue of the said right or estate purposed to be conveyed or assured.

Alienations and warranties of land shall pass only what the person might lawfully convey;

II. BUT if the deed of the alienor doth mention that he and his heirs be bound to warranty, and if any heritage descend to the demandant of the fide of the alienor, then he shall be barred for the value of the heritage that is to him descended. And if in time after any heritage descend to him by the said alienor, then shall the tenant recover against him of the seizin warranted, by judicial writ, that shall issue out of the rolls of the Justices, before whom the plea was pleaded, to re-summon his warranty, as before hath been done in cases where the warrantor cometh into the Court, saying, that nothing descended from him by whose deed he is vouched.

How far the heirs shall be barred, or bound to recompence the tenant where they have assets.

III. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty seven.

Commencement of this act.

CHAP. XIV.

An Act directing what Prisoners shall be let to Bail.†

[Passed the 5th of December, 1785.¶]

I. **F**OR ascertaining in what cases persons apprehended on suspicion of felony shall or shall not be admitted to bail: *Be it enacted by the General Assembly,* That those shall be let to bail who are apprehended for any crime not punishable in life or limb: And if the crime be so punishable, but only a light suspicion of guilt fall on the party, he shall in like manner be bailable: But if the crime be punishable in life or limb, or if it be man-slaughter, and there be good cause to believe the party guilty thereof, he shall not be admitted to bail.

What prisoners shall be admitted to bail;

II. NO person shall be bailed after conviction of any felony.

and who shall not.

III. IF any Justice let any go at large on bail who is not bailable, or refuse to admit to bail any who have right to be so admitted, after they shall have offered sufficient bail, or require excessive bail, he shall be amerced at the discretion of a Jury.

Penalty on Justices for admitting prisoners to bail, or for refusing it improperly.

IV. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty seven.

Commencement of this act.

† 1785, ch. 69. ‡ Amended Dec. sess. 1800, ch. 60. ¶ 1785, ch. 82.

CHAP. XV.

An Act declaring that none shall be condemned without Trial, and that Justice shall not be sold or deferred.

[Passed the 5th of December, 1785.†]

No freeman to be deprived of liberty, rights, or freehold, but by judgment of his peers, or by the laws.

Justice not to be sold, denied, or deferred.

Commencement of this act.

I. **B**E it enacted by the General Assembly, That no freeman shall be taken or imprisoned, or be disseized of his freehold, or liberties or free customs, or be outlawed or exiled, or any otherwise destroyed, nor shall the Commonwealth pass upon him, nor condemn him, but by lawful judgment of his Peers, or by the laws of the land. Justice or right shall not be sold, denied, or deferred to any man.

II. THIS Act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty seven.

CHAP. XVI.

An Act concerning Estrays.

[Passed the 12th of December, 1785.‡]

Method of taking up and appraising estrays,

I. **B**E it enacted by the General Assembly, That it shall be lawful for any person, by himself or his agent, to take up any Estray on his own land, and having taken it, he, or his agent, shall forthwith give information thereof to some Justice of the Peace for the said County, who shall thereupon issue his warrant to three disinterested freeholders of the neighbourhood, commanding them, having been first duly sworn, to view and appraise such Estray, and certify the valuation under their hands, together with a particular description of the kind, marks, brand, stature, colour, and age; which certificate shall by the Justice be transmitted to the Clerk of the County Court within twenty days, and by such Clerk entered in a book to be kept for that purpose, for which he may demand and take ten pounds of tobacco, to be paid down by the taker up.

of advertising them.

II. THE Clerk shall moreover cause a copy of every such certificate to be publicly affixed at the door of his Court-house, on two several Court-days next after he receive the same, for which, and a certificate thereof, he shall receive the like fee as for entering the same in the book.

When the property shall be vested in the person taking them up.

III. IF the valuation shall be under twenty shillings, and no owner shall appear until notice shall have been twice published, as aforesaid, the property shall then be vested in the owner of the land, on which such Estray was taken; and if the valuation shall exceed twenty shillings, such owner shall, within three months after the appraisement, send to the Public Printer a copy of the certificate, to be advertised three times in the Virginia Gazette, with notice of the place where such Estray is, for which the Printer may demand four shillings for each Estray; and if no owner appears to claim such Estray within a year and a day after the publication, the property shall from thenceforth be vested in the owner of the lands whereon it was taken. But the former owner, in either case, may at any time, within five years afterwards, upon proving his property, demand and recover the valuation money, deducting therefrom the Clerk's and Printer's fees, and five shillings for every horse or head of neat cattle, and one shilling for every other beast.

Reserving the right of the former proprietor to the value.

Boats or other vessels adrift, taken up, to be appraised and advertised in the same manner.

Proviso in case of the death or loss of the estray.

IV. IF any person shall take up a boat or other vessel adrift, he shall in like manner make application to a Justice of one of the adjacent Counties, for his warrant, to have the same valued and described by her kind, burthen and built, and shall proceed in all other respects, and have the same benefit as before directed in the case of Estrays. *Provided always*, That if after notice published as aforesaid, any Estray shall happen to die, or by any casualty get out of the possession of the person who took the same up, without his or her default, such taker up shall not be answerable for the same, or for the valuation thereof; nor shall any taker up be answerable for any boat or other vessel lost as aforesaid.

Commencement of this act.

V. THIS act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

CHAP. XVII.

An Act concerning Election of Members of General Assembly.

[Passed the 20th of December, 1785.†]

I. **B**E it enacted by the General Assembly, That the Delegates for the several Counties, and the City of *Williamsburg* and Borough of *Norfolk*, and the six Senators for one of the four classes of Districts, in the room of those who will annually be displaced, shall be chosen, in the manner hereafter directed, in the month of April in every year, on the Court days of each respective County or Corporation, and shall meet together, and with the remaining Senators, on the third Monday of October then next following, in General Assembly, at the place the last preceding General Assembly shall have sat in, or adjourned to, unless such place be in possession of a public enemy, or infected with the plague or small-pox, in which case they shall meet at such other place as the Governor, with the advice of the Council, shall appoint, and notify by Proclamation.

When to be elected.

When and where to meet in General Assembly.

See acts of 1793, chap.

20.

Also, acts of 1796, ch. 9.

II. EVERY male Citizen (other than free Negroes or Mulattoes) of this Commonwealth, aged twenty-one years, or such as have refused to give assurance of fidelity to the Commonwealth, being possessed, or whose tenant for years, at will, or at sufferance, is possessed of twenty-five acres of land, with a house, the superficial content of the foundation whereof is twelve feet square, or equal to that quantity, and a plantation thereon, or fifty acres of unimproved land, or a lot or part of a lot of land in a City or Town established by Act of General Assembly, with a house thereon, of the like superficial content or quantity, having in such land an estate of freehold at the least, and, unless the title shall have come to him by descent, devise, marriage or marriage-settlement, having been so possessed six months, and no other person shall be qualified to vote for Delegates to serve in General Assembly, for the County, City, or Borough respectively, in which the land lieth. If the fifty acres of land being one entire parcel, lie in several Counties, the holder shall vote in that County wherein the greater part of the land lieth only; and if the twenty-five acres of land, being one entire parcel, be in several Counties, the holder shall vote in that County wherein the house standeth only. In right of land holden by parceners, joint-tenants, or tenants in common, but one vote shall be given by all the holders capable of voting, who shall be present, and agree to vote for the same Candidate or Candidates, unless the quantity of land, in case partition had been made thereof, be sufficient to entitle every holder present to vote separately, or unless some one or more of the holders may lawfully vote in right of another estate or estates in the same County, in which case the others may vote, if holding solely, they might have voted.

Who qualified to vote as electors.

III. EVERY person having such a freehold in the City of *Williamsburg* or Borough of *Norfolk*, as will qualify him to vote for Delegates to represent the County, and also every freeman, except as before excepted, aged twenty-one years, being a Citizen of the Commonwealth, and not having refused to give assurance of fidelity, who shall be a housekeeper, and shall have resided for six months in the said City or Borough, and shall be possessed of a visible estate of the value of fifty pounds at least, or shall actually have served as an apprentice to some trade within the said City or Borough for the term of five years, and shall have obtained a certificate of such service from the Court of Hustings, under the common seal of the City or Borough, and no other, shall be qualified to vote for a Delegate to represent the said City or Borough, respectively, in General Assembly.

Who may vote as electors in Williamsburg & Norfolk.

IV. EVERY person qualified as aforesaid to vote for Delegates, shall be capable of being elected a Delegate for the County, City, or Borough, or Senator for the District in which he resides.

Who may be elected.

V. NO person, who shall have served as a Member of the Legislature for seven years in the whole, shall be afterwards compellable to serve therein.

No person compellable to serve more than seven years.

VI. ANY Elector qualified according to this Act, failing to attend any annual election of Delegates or of a Senator, and, if a poll be taken, to give, or offer to give his vote, shall pay one fourth of his portion of all such levies and taxes as shall be assessed and levied in his County the ensuing year: And

Penalty on electors failing to attend and vote.

† 1785, ch. 57. See ch. 39, post.

|| By acts of 1798, ch. 14, elections to be held the 4th Wednesday in April.

See chap. 39, sec. 8.

for discovering such defaulters, the Sheriff or other officer taking the poll, shall within ten days after the said election, deliver to the Clerk of the County, or Corporation Court, as the case may be, a copy of the poll by him taken, to be kept in his office, who shall suffer any candidate or elector to take a copy thereof; and the said Clerk is hereby directed to cause a copy of the same to be delivered to the next Grand Jury, to be sworn for the County or Corporation, who shall be charged by the presiding Magistrate, to make presentment of all such persons qualified to vote, residing in the said County or Corporation, who shall have failed to have given their votes at the said election agreeable to law. And for the better information of the said Jury, the Sheriff of the County is hereby commanded, under the penalty of fifty pounds, to be recovered and appropriated as the penalties for other neglects of his duty, to lay before them a list of all the landholders resident therein.

Privilege of electors.

VII. EVERY Elector, going to, abiding at, and returning from an election, shall be privileged from arrests one day for every twenty miles he shall necessarily travel, exclusive of the day of election; and any process against such Elector, executed during such privilege, shall be void.

Method of taking the poll.
See acts of 1800, chap. 51.

VIII. UPON the election of a Senator, and also of a Delegate, or Delegates, when the election of such Delegate, or Delegates, cannot be determined by view, the Sheriff, or in his absence, the under Sheriff of the County, § or the Mayor of the City or Borough, shall in presence of the, candidates, or their agents, cause the poll to be taken in the Court-house; or if that be in a Town infected with any contagious disease, or be in danger of an attack from a public enemy, at some other place according to these directions: He shall appoint such, and so many writers as he shall think fit, who shall respectively take an oath, to be administered by him, or make solemn affirmation that they will take the poll faithfully and impartially: He shall deliver a poll-book to each writer, who by ruling lines thereon, having made as many columns as there shall be candidates, shall enter the name of each candidate in a distinct column at the head thereof, and under his name in the same column, the name of every elector, who shall vote for that candidate; and after the names of all the electors who will give their votes (Proclamation having been made three times at the door of the Court-house, or other place of holding such election, by the officer requiring those who had not been polled, to come in and give their votes) shall have been thus entered, he shall conclude the poll, and declare the candidates for whom the greatest number of votes shall appear to have been given to be elected; or if the greatest number of votes for several candidates shall be equal with one another, he may declare which of the candidates he will elect. If the number of votes for several persons to be a Senator be equal, and the votes of the returning officers be equal also, it shall be decided by a lot taken by the said returning officers at their meeting, which shall be within twenty days after the last day of election, at such place as shall be appointed by the returning officer of the first County in which such election shall be, who is hereby commanded forthwith to give notice to the returning officers. No elector shall be admitted to poll a second time, at one and the same election, although at the first time he shall have given but a single vote. If the electors who appear, be so numerous that they cannot all be polled before sun-setting; or if by rain or rise of water-courses, many of the electors may have been hindered from attending, the Sheriff, or under Sheriff, may, by request of any one, or more of the candidates, or their agents, adjourn the proceeding on the poll until the next day, and so from day to day for four days, (Sundays excluded) if the same cause continue, giving public notice thereof by Proclamation at the door of the Court-house, or other place of holding such elections, and shall on the last day of the election conclude the poll according to the directions aforesaid.

Officer may declare which of the candidates he will elect, when the votes are equal.

See chap. 39, sec. 6.

When and how the poll may be adjourned.

Mode of proceeding in contested elections.
See chap. 39, sec. 1, 2, 3, 4.

IX. ON complaint to either House of Assembly of an undue election, or return of any Member to their House, such House shall forthwith appoint some day for trying the same, as shortly as shall be consistent with fair enquiry, but not within less than fourteen days after such complaint lodged, whereof notice shall be given by the Speaker to the party against whom the complaint is, if he be absent; which day of trial may be lengthened from time to time, on good cause shewn to the House, and notice to the absent party. On the day appointed for the trial, the Committee of Privileges and Elections shall proceed on the said disputed election, and report to the House of which they are Members, their opinion thereon, before they proceed to any other business, and the

§ By acts of 1799, ch. 17, in case of death of sheriff, or his being a candidate, a magistrate to act as sheriff at elections.

said House shall, on receipt of the said report, immediately proceed to determine thereon, and either confirm or disagree to such report, as to them shall seem just. If any person sworn before the said Committee, shall give, or withhold, any evidence under such circumstances as would have constituted the same to be perjury, if done in presence of a Court of Record, the same shall be deemed perjury. If upon any such trial it shall appear that equal numbers of qualified Electors shall have voted for the petitioner and the sitting Member, and the officer who conducted the election shall swear or solemnly affirm that if such equality had appeared at the election, he would have declared the petitioner elected, such petitioner shall be deemed duly elected; and his name, instead of the name of the sitting Member, which shall be erased, shall be inserted in the certificate or return.

X. NO Elector shall be polled before he shall have declared, if required to do so by any candidate, or his agent, in what right he offers to vote, and shall have taken an oath, which the officer conducting the election shall administer, or make a solemn affirmation in this form: "I do swear (or do solemnly affirm) that I do in my conscience believe myself to be duly qualified to vote for Delegates to serve in General Assembly for the County of _____, according to the act of General Assembly, intituled, 'An Act _____'" of which oath or affirmation, a note shall be made in the poll-book, opposite, and referring to the name of the person swearing or affirming. The making such oath or affirmation falsely, shall be perjury.

Electors if required, shall be sworn.

XI. THE names of Electors offering to be polled, but refusing to make such oath or affirmation, shall be entered on the poll-books in separate lists, with the names of the candidates for whom they voted, and shall be added to the poll, if, upon a scrutiny the votes be justified.

Names of electors refusing to swear, to be entered in separate lists.

XII. THE Sheriff or under Sheriff shall certify the election of Delegates in this form, or to this effect: "Be it known to all to whom these presents shall come, that I _____, Sheriff (or Deputy of _____, Sheriff) of the County of _____ in my full County, held at the Court-house thereof (or at _____) on the _____ day of _____ in the year of our Lord, _____, by the Electors of my said County, qualified according to law, caused to be chosen two Delegates for my said County, namely, _____ and _____ to represent the same in General Assembly. Given under my hand and seal, the day and year aforesaid."

Manner of certifying election of Delegates.

XIII. The Mayor of a City or Borough entitled to particular representation, shall certify the election of a Delegate in this form, or to this effect: "Be it known to all to whom these presents shall come, that I _____, Mayor of the City (or Borough) of _____, at the Court-house of _____ (or at _____) in the said City (or Borough) on the _____ day of _____ in the year of our Lord, _____, by the electors of the said City (or Borough) qualified according to law, caused to be chosen a Delegate for the said City (or Borough) namely, _____ to represent the same in General Assembly. Given under my hand and seal, the day and year aforesaid."

XIV. THE Sheriffs, or under Sheriffs, of the several Counties of a District, shall certify the election of a Senator in this form, or to this effect: "Be it known to all to whom these presents shall come, that we _____, Sheriff, (or _____, Deputy of _____, Sheriff) of the County of _____, _____, Sheriff (or _____, Deputy of _____, Sheriff) of the County of _____, and _____, Sheriff (or _____, Deputy of _____, Sheriff) of the County of _____, in our full Counties held at the Court-houses thereof (or at _____) respectively, on the _____ day of _____ in the year of our Lord, _____, by the Electors of our said respective Counties, qualified according to law, caused to be chosen a Senator for the District, composed of the said Counties, namely, _____ to represent the same in General Assembly. Given under our bands and seals, the day and year aforesaid."

Of Senators.

XV. THE officers directed to make such certificates of elections as aforesaid, shall cause them to be delivered, those of Delegates, to the Clerk of the House of Delegates, and those of Senators, to the Clerk of the Senate, one day at least before the succeeding Session of General Assembly.

Certificates of elections, to whom to be delivered.

XVI. FOR election of a Delegate or Senator, when a vacancy shall happen, a writ or writs shall be issued by the Speaker of that House whereof he was a Member; but if the vacancy be occasioned by acceptance of an office, the writ or writs shall not be issued, without the special order of the House;

Method of issuing, executing, and returning writs, for electing members to supply vacancies.

and the officer to whom such writ shall be directed, so soon after the receipt thereof as he may be able, shall give the Electors notice thereof as well as of the time and place of election, by advertisement to be affixed at four of the most convenient places in the County, and shall cause the election to be made in the manner herein before prescribed, and shall have the same power of adjourning the proceeding upon the poll, as in case of a general election. The return of such writ for electing a Delegate or Delegates, shall be in this form, or to this effect: Upon the writ shall be endorsed these, or the like words: "*The execution of this writ appears in a schedule hereunto annexed;*" and on another paper annexed to the writ shall be written, if the writ be for the election of a Delegate for a County, these or the like words: "*By virtue of this writ to me directed, in my full County held at the Court-house thereof (or at) on the day of , in the year of our Lord, , by the Electors of my said County, qualified according to law, I caused to be chosen a Delegate (or two Delegates) for my said County, namely, , to represent the same in General Assembly. Given under my hand and seal, the day and year aforesaid;*" and if the writ be for the election of a Delegate for a City or Borough, these, or the like words: "*By virtue of this writ to me directed, at the Court-house of the City of (or Borough of , or at , in the Borough of) on the day of , in the year of our Lord, , by the Electors of the said City (or Borough) qualified according to law, I caused to be chosen a Delegate for the said City (or Borough) namely, , to represent the same in General Assembly. Given under my hand and seal, the day and year aforesaid;*" and the return of the writs for electing a Senator shall be in this form, or to this effect: Upon each writ shall be endorsed these, or the like words: "*The execution of this writ appears in a schedule hereunto annexed;*" and on another paper connecting the several writs together, shall be written these, or the like words: "*By virtue of these writs to us directed, in our full counties, held at the Courthouses thereof respectively (or at) on the day of , in the year of our Lord, , by the Electors of our said respective Counties, qualified according to law, we caused to be chosen a Senator for the District composed of our said Counties, namely, , to represent the same in General Assembly. Given under our hands and seals, the day and year aforesaid.*" And the officers conducting the elections, shall make their said returns to the General Assembly, if it be fitting, immediately, or if it be not fitting, one day at least before the time to which the writ shall be returnable.

Penalties on the officers for refusing to take the poll, or other neglect of duty.

XVII. A SHERIFF, under Sheriff, or Mayor, refusing to take the poll when he shall be required by a candidate, or Elector, or taking it in other manner than is herein before prescribed, or making a false certificate or return of the election of a Member or Members to serve in the General Assembly, or neglecting to cause the certificate or return of such election to be made to such Clerk, and at or before such time as is herein before directed, shall forfeit and pay one hundred pounds; and neglecting to deliver the poll-books to the Clerk of the Court, to whom, and before the expiration of the time within which they are herein before directed to be delivered, or refusing to suffer any Candidate or Elector, at his own expense, to take a copy of the poll-books, shall forfeit and pay fifty pounds; which penalties may be recovered with costs in actions of debt, by any person who will sue for the same, one half to his own use, and the other half to the use of the Commonwealth.

Members bribing electors to be expelled and disabled to be re-elected for three years.

XVIII. ANY person hereafter to be elected to serve in the General Assembly, who shall directly or indirectly give or agree to give any Elector or pretended Elector, money, meat, drink, or other reward, in order to be elected, or for having been elected, for such, or any other County, City, or Borough, shall be expelled and disabled to be re-elected during the term of three years.†

Privilege of the members.

XIX. THE privilege of Members of the General Assembly shall continue during every session, and one day before and after for every twenty miles they must necessarily travel to, and from home, and, in the meantime, process in which they are parties shall be suspended, without abatement or discontinuance. If any person taken in execution, be delivered by privilege of either House of General Assembly, so soon as such privilege ceaseth, he shall return himself a prisoner in execution, or be liable to an escape.

† See ch. 69, sec. 2; also, acts of 1798, ch. 10.

XX. IF a sufficient number of the Members of General Assembly, or of either House thereof, to adjourn from day to day, shall not meet at any time when they ought, the Governor by Proclamation, with advice of the Council, may prorogue the General Assembly, or adjourn the deficient House, from day to day, until a sufficient number shall convene; and their acts and proceedings afterwards shall be as valid as if there had been no such interruption. But a Delegate or Senator shall lose all the wages he would otherwise have been entitled to, if he shall depart from the General Assembly before it be adjourned, without licence from the Speaker and other Members of the House whereof he is a Member, first entered on the Journal; yet any Member of either House taken so sick during his attendance in General Assembly, or in his journey thither, as that he shall be unable to come to or sit in the House, shall receive wages for every day of the Session he shall be so disabled, in the same manner as if he had sat in the House.* If on the day appointed for the meeting of any General Assembly, or at any time during the Session, a sufficient number of the Members thereof, to proceed to business, do not attend for that purpose, every absent Delegate or Senator, shall, besides losing his wages during absence, forfeit and pay to the use of this Commonwealth, ten pounds; such forfeiture to be recovered by prosecution to be instituted in the General Court by order of such House, and on the trial of such prosecution, no excuse for non-attendance, other than those before-mentioned, shall be admitted by the Jury; and if it be alledged that the defendant did attend such House, on any of the days during which they could not do business for want of Members, the proof of such attendance shall rest on him.

XXI. THE General Assembly may during a Session, or at the end thereof, adjourn to any other place than that where they shall then be sitting.

XXII. EVERY Act of the General Assembly hereafter to be made, shall commence and be in force from the passing thereof, unless in the Act itself another day for the commencement thereof be particularly mentioned, and in the former case the day of passing thereof shall be noted next after the title.†

XXIII. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty-seven.

When the Assembly may be prorogued, or either House adjourned by the Governor and Council.

Penalties on Members departing without leave.

Members attending, but unable through sickness to sit in the House, entitled to their wages.

Penalty on absent Members when there is not a House for want of Members.

General Assembly may adjourn to any other place than that where they are sitting.

When Acts of Assembly are to commence in force.

Commencement of this act.

CHAP. XVIII.

An Act to approve, confirm, and ratify the Compact made by certain Commissioners appointed by the General Assembly of the State of Maryland, and Commissioners appointed by this Commonwealth.

[Passed the 3d of January, 1786.‡]

I. **W**HEREAS, at a meeting of the Commissioners appointed by the General Assembly of the State of Maryland and Virginia, to wit, Daniel of St. Thomas Jenifer, Thomas Stone, and Samuel Chase, Esquires, on the part of the State of Maryland, and George Mason and Alexander Henderson, Esquires, on the part of the State of Virginia, at Mount-Vernon, in Virginia, on the 28th day of March, in the year one thousand seven hundred and eighty-five, the following compact was mutually agreed to by the said Commissioners.

First,—THE Commonwealth of Virginia disclaims all right to impose any toll, duty, or charge, prohibition or restraint, on any vessel whatever sailing through the Capes of Chesapeake Bay to the State of Maryland, or from the said State through the said Capes outward bound; and agrees that the waters of Chesapeake Bay, and the river Pocomoke, within the limits of Virginia, be forever considered as a common high-way, free for the use and navigation of any vessel belonging to the said State of Maryland, or any of its citizens, or carrying on any commerce to or from the said State, or with any of its citizens; and that every such vessel inward or outward bound, may freely enter any of the rivers within the Commonwealth of Virginia, as a harbour, or for safety against an enemy, without the payment of port duties, or any other charge; and also, that the before-mentioned parts of Chesapeake Bay, and Pocomoke River, be free for the navigation of vessels from one part of the State of Maryland to another.

Preamble.

Articles of the compact.

* Allowance to members ascertained in 1795, ch. 26—Increased in 1799, ch. 34.

† This clause repealed by 2d sec. of act of 1789, (pa. 6, ch. 9,) concerning a new edition of the laws, &c. see note at beginning.

‡ 1785. ch. 17.

Second,—THE State of *Maryland* agrees that any vessel belonging to the Commonwealth of *Virginia*, or any of its citizens, or carrying on commerce to or from the said Commonwealth, or with any of its citizens, may freely enter any of the rivers of the said State of *Maryland* as a harbour, or for safety against an enemy, without the payment of any port duty, or other charge.

Third,—VESSELS of war, the property of either State, shall not be subject to the payment of any port duty, or other charge.

Fourth,—VESSELS not exceeding forty feet keel, nor fifty tons burthen, the property of any citizen of *Virginia* or *Maryland*, or of citizens of both States, trading from one State to the other only, and having on board only the produce of the said States, may enter and trade in any part of either State, with a permit from the Naval-Officer of the district from which such vessel departs with her cargo, and shall be subject to no port charges.

Fifth,—ALL merchant vessels (except such as are described in the fourth article) navigating the River *Potowmac*, shall enter and clear at some Naval-Office on the said river, in one or both States, according to the laws of the State in which the entry shall be made. And where any vessel shall make an entry in both States, such vessel shall be subject to tonnage in each State only in proportion to the commodities carried to, or taken from, such State.

Sixth,—THE River *Potowmac* shall be considered as a common high-way, for the purpose of navigation and commerce to the citizens of *Virginia* and *Maryland*, and of the United States, and to all other persons in amity with the said States, trading to or from *Virginia* or *Maryland*.

Seventh,—THE citizens of each State respectively shall have full property in the shores of *Potowmac* River adjoining their lands, with all emoluments and advantages thereunto belonging, and the privilege of making and carrying out wharves and other improvements, so as not to obstruct or injure the navigation of the river; but the right of fishing in the river shall be common to, and equally enjoyed by the citizens of both States: *Provided*, That such common right be not exercised by the citizens of the one State, to the hindrance or disturbance of the fisheries on the shores of the other State; and that the citizens of neither State shall have a right to fish with nets or seines on the shores of the other.

Eighth,—ALL laws and regulations which may be necessary for the preservation of fish, or for the performance of quarantine, in the river *Potowmac*, or for preserving and keeping open the channel and navigation thereof, or of the River *Pocomoke*, within the limits of *Virginia*, by preventing the throwing out ballast, or giving any other obstruction thereto, shall be made with the mutual consent and approbation of both States.

Ninth,—LIGHT-HOUSES, beacons, buoys, or other necessary signals, shall be erected, fixed, and maintained upon *Chesapeake* Bay, between the sea and the mouths of the Rivers *Potowmac* and *Pocomoke*, and upon the River *Potowmac*, at the expense of both States; if upon *Potowmac* River, at the joint and equal charge of both States; and if upon the before-mentioned part of *Chesapeake* Bay, *Virginia* shall defray five parts, and *Maryland* three parts of such expense; and if this proportion shall in future times be found unequal, the same shall be corrected. And for ascertaining the proper places, mode and plans for erecting and fixing light-houses, buoys, beacons, and other signals, as aforesaid, both States shall, upon the application of either to the other, appoint an equal number of Commissioners, not less than three, nor more than five, from each State, to meet at such times and places as the said Commissioners, or a major part of them, shall judge fit, to fix upon the proper places, mode, and plans for erecting and fixing such light-houses, beacons, or other signals, and report the same, with an estimate of the expense, to the Legislatures of both States, for their approbation.

Tenth,—ALL piracies, crimes, or offences committed on that part of *Chesapeake* Bay which lies within the limits of *Virginia*, or that part of the said Bay where the line of division from the South point of *Potowmac* River (now called *Smith's Point*) to *Watkins's Point*, near the mouth of *Pocomoke* River, may be doubtful, and on that part of *Pocomoke* River within the limits of *Virginia*, or where the line of division between the two States upon the said river, is doubtful, by any persons not citizens of the Commonwealth of *Virginia*, against the citizens of *Maryland*, shall be tried in the Court of the State of *Maryland*, which hath legal cognizance of such offence: And all piracies, crimes, and offences committed on the before-mentioned parts of *Chesapeake* Bay, and *Pocomoke* River, by any persons not citizens of *Maryland*, against

any citizen of *Virginia*, shall be tried in the Court of the Commonwealth of *Virginia*, which hath legal cognizance of such offence: All piracies, crimes, and offences committed on the said parts of *Chesapeake Bay* and *Pocomoke River*, by persons not citizens of either State, against persons not citizens of either State, shall be tried in the Court of the Commonwealth of *Virginia*, having legal cognizance of such offences: And all piracies, crimes, and offences committed on the said parts of *Chesapeake Bay* and *Pocomoke River*, by any citizen of the Commonwealth of *Virginia*, or of the State of *Maryland*, either against the other, shall be tried in the Court of that State of which the offender is a citizen. The jurisdiction of each State over the River *Potowmac*, shall be exercised in the same manner as is prescribed for the before-mentioned parts of *Chesapeake Bay* and *Pocomoke River*, in every respect, except in the case of piracies, crimes, and offences committed by persons not citizens of either State, upon persons not citizens of either State, in which case the offenders shall be tried by the Court of the State to which they shall first be brought. And if the inhabitants of either State shall commit any violence, injury, or trespass, to or upon the property or lands of the other, adjacent to the said Bay or Rivers, or to any person upon such lands, upon proof of due notice to the offender to appear and answer, any Court of Record, or Civil Magistrate of the State where the offence shall have been committed, having jurisdiction thereof, may enter the appearance of such person, and proceed to trial and judgment, in the same manner as if legal process had been served on such offender; and such judgment shall be valid and effectual against the person and property of such offender, both in the State where the offence shall have been committed, and also in the State where the said offender may reside: and execution may be issued by the Court, or Magistrate, giving such judgment, in the same manner as upon judgments given in other cases; or upon a transcript of such judgment, properly authenticated, being produced to any Court, or Magistrate, of the State where such offender may reside, having jurisdiction within the State, or County where the offender may reside, in cases of a similar nature, such Court, or Magistrate, shall order execution to issue upon such authenticated judgment in the same manner, and to the same extent, as if the judgment had been given by the Court, or Magistrate, to which such transcript shall be exhibited.

Eleventh,—ANY vessel entering into any port on the River *Potowmac*, may be libelled, or attached for debt, by process from the State in which such vessel entered. And if the commercial regulations of either State shall be violated by any person carrying on commerce in *Potowmac* or *Pocomoke Rivers*, the vessel owned or commanded by the person so offending, and the property on board, may be seized, by process from the State whose laws are offended, in order for trial. And if any person shall fly from justice, in a civil or criminal case, or shall attempt to defraud creditors by removing his property, such person, or any property so removed, may be taken on any part of *Chesapeake Bay*, or the rivers aforesaid, by process of the State from which such person shall fly, or property be removed; and process from the State of *Virginia* may be served on any part of the said rivers, upon any person, or property of any person not a citizen of *Maryland*, indebted to any citizen of *Virginia*, or charged with injury, having been by him committed; and process from the State of *Maryland* may be served on any part of the said rivers, upon any person, or property of any person, not a citizen of *Virginia*, indebted to a citizen of *Maryland*, or charged with injury by him committed. And in all cases of trial in pursuance of the jurisdiction settled by this compact, citizens of either State shall attend as witnesses in the other, upon a summons from any Court, or Magistrate, having jurisdiction, being served by a proper officer of the County where such citizen shall reside.

Twelfth,—THE citizens of either State having lands in the other, shall have full liberty to transport to their own State, the produce of such lands, or to remove their effects, free from any duty, tax, or charge whatsoever, for the liberty to remove such produce or effects.†

Thirteenth,—THESE Articles shall be laid before the Legislatures of *Virginia* and *Maryland*, and their approbation being obtained, shall be con-

† See Acts of 1796, ch. 11, allowing persons carrying slaves from this into another State, to bring them back.

Ratification thereof.

firmed and ratified by a law of each State, never to be repealed, or altered, by either, without the consent of the other.

II. AND WHEREAS this General Assembly are of opinion, that the said compact is made on just and mutual principles, for the true interest of both governments, and the same having been confirmed by the General Assembly of the State of *Maryland*: *Be it therefore enacted*, That the said compact is hereby approved, confirmed, and ratified by the General Assembly of *Virginia*, and that every article, clause, matter and thing therein contained, shall be obligatory on this State and the citizens thereof, and shall be forever faithfully and inviolably observed and kept by this government, and all its citizens, according to the true intent and meaning of the said Compact; and the faith and honor of this State is hereby solemnly pledged and engaged to the General Assembly of the State of *Maryland*, and the government and citizens thereof, that this law shall never be repealed, or altered, by the Legislature of this Commonwealth, without the consent of the State of *Maryland*.

CHAP. XIX.

An Act concerning Public Roads.†

[Passed the 5th of January, 1786.‡]

County Courts authorized to open new roads, or alter former ones.

I. **B**E it enacted by the General Assembly, That where any person or persons shall make application to any County Court, to have a new road opened, or a former one altered, within their County, for the convenience of travelling to their County Court-house, to any public warehouse, landing, ferry, mill, lead or iron works, or to the Seat of Government, they shall appoint three or more fit and able persons, to be sworn before a Justice of the Peace, to view the ground along which such road is proposed to be conducted, and to report to them truly and impartially the conveniences and inconveniences which will result, as well to individuals as to the public, if such way shall be opened; and where the application is to alter a former road, they shall also view the former road, and report in like manner, the comparative conveniences and inconveniences thereof.

II. UPON the return of the said Viewers, if the Court shall be of opinion that the road applied for will be convenient, they shall order summonses to be issued to the proprietors and tenants of the lands, through which the same is proposed to be conducted, if they be found within the County, and if not, then to their agents therein, if any they have, to shew cause why such road should not be opened; upon the return of which summons, if any proprietor or tenant so desire, the said Court shall order their Clerk to issue a writ in the nature of a writ *ad quod damnum*, to be directed to the Sheriff, commanding him to summon and empanel twelve able and discreet freeholders of the vicinage, no ways related to either party, to meet at some certain place on the ground through which the said road is proposed to be conducted, and on a certain day to be named by the Court, and inserted in the said writ, of which notice shall be given by the Sheriff to the said proprietors or tenants, or their agents, as before directed, if they were not present in Court at the time of the order made; which freeholders, taking nothing (on pain of being discharged from the Inquest, and immediately imprisoned by the Sheriff) either of meat or drink, from any person whatever, from the time they shall come to the said place until their Inquest sealed, shall be charged by the said Sheriff impartially, and to the best of their skill and judgment, to view the lands through which the said road is proposed to be conducted, and say to what damage it will be of to the several and respective proprietors and tenants, who desired such writ, taking into estimation as well the use of the lands to be laid open for such road, as the additional fencing, which will thereby be rendered necessary; and if the said Inquest cannot be compleated in one day, the Sheriff shall adjourn the said Jurors from day to day, until the same be compleated: Which Inquest, sealed by the said Jurors, together with the writ, shall be returned to the Court, who thereupon, as well as upon other evidence, shall proceed to consider whether, all circumstances weighed, it be better that the said road shall be opened, and if they be of opinion that the same shall be opened, they shall levy on their County, at their next levy to be laid, the damages so found, and the costs of the inquest, and direct them to be paid to those respectively entitled thereto. But if they shall be of opinion that the said road ought not to be opened, the costs

† Amended in 1796, ch. 42.

‡ 1785, ch. 77.

of such inquest shall be adjudged against the party applying for the said road. But it shall not be lawful for any Court to order a road to be opened through any lot of land in any town, without the consent of the owner and tenant thereof.

III. THE several Courts shall also divide all the public roads into precincts, and as often as it shall be necessary, appoint a Surveyor over every precinct, whose duty it shall be to superintend the road in his precinct, and see that the same be cleared and kept in good repair; which Surveyor shall continue in office until another shall be appointed by the said Court in his stead.

To divide the public roads into precincts, & appoint a surveyor to each.

IV. ALL male labouring persons, of the age of sixteen years or more, except such as are masters of two or more male labouring slaves, of the age of sixteen years or more, shall be appointed by the Court to work on some public road: For every person so appointed, who, when required by the Surveyor placed over him, shall, without legal cause or disability, fail to attend, with proper tools for clearing the road, or shall refuse to work when there, or to find some other person equally able, to work in his room, the sum of seven shillings and six pence, for every day's offence, shall be paid, by himself, if he be a freeman of full age, if an infant, then by his parent, guardian, or master, and if a slave or servant, then by his overseer, if he be under one, or otherwise, by his master.

Who are to work on the roads.

V. THE Clerk of every County Court shall, within ten days after the appointment of any Surveyor of a road, deliver a copy of the order to the Sheriff of the County, under the penalty of fifteen shillings; and the Sheriff, within fifteen days after the receipt of such order, shall deliver the same to the Surveyor, under the penalty of fifteen shillings. And each Clerk shall moreover, once in every year, fix up in the Court-house, a list of the names and precincts of all the Surveyors of roads in his County, under the penalty of fifty shillings for every neglect.

Surveyors how to be notified of their appointments.

Clerks annually to fix up lists of their names at their Courthouses.

VI. EVERY Surveyor of a Road shall cause the same to be constantly kept well cleared and smoothed, and thirty feet wide at the least; and at the fork or crossing of every public road, shall cause to be erected, and kept in repair from time to time, a stone, or otherwise an index on a post or tree, with plain inscriptions thereon, in large letters, directing to the most noted place to which each of the said roads shall lead, and may take stone or wood for that purpose from any adjoining land; and for the expense of setting up and inscribing such stones, posts, or indexes, and keeping them in repair, the Surveyor shall be reimbursed by the County Court in their next succeeding levy; and where bridges and causeys are necessary, the Surveyor shall cause them to be made, twelve feet broad at the least, convenient and safe, and shall keep the same in repair, and for that purpose may cut and take from the lands of any person adjoining, such, and so much timber, earth, or stone, as may be necessary, the same being first viewed and valued by two honest house-keepers, appointed and sworn for that purpose by a Justice of the Peace, unless the owner shall freely give such timber, stone, or earth, for that use; but where a road leads through a city or town, the Surveyor shall not take any timber, stone, or earth, from any lot within the town, without the permission of the owner, but shall take the same from the lands high or adjacent to the said town, where it will do the least injury to the proprietor; and where the assistance of wheel-carriages is necessary for making or repairing any causeys, any Justice of Peace may issue his warrant, under his hand and seal, for empowering the Surveyor to impress such necessary carriages, draught horses, or oxen, with their gear and driver, belonging to any person who, or their servants or slaves, are appointed to work on the road, and appointing two honest house-keepers, who, being sworn, shall value, by the day, the use of such carriages, draught horses, oxen, and driver, which valuation, with a certificate from the Surveyor how many days the said things were employed in the work, shall entitle the owner to an allowance for the same in the next County levy. And in the like manner shall the owner of timber, stone, or earth, taken for bridges or causeys, be entitled to the valuation thereof in the next County levy, upon a certificate from the two house-keepers who value the same. Every Surveyor of a road, who fails to do his duty as aforesaid, shall forfeit fifteen shillings for every offence.

Duty of the Surveyors.

Penalty on them for neglect.

VII. WHERE a bridge or causey shall be necessary, and the Surveyor, with his assistants, cannot make or maintain the same, the Court of the County are empowered and required to contract for the building and repairing such

How bridges and causeys are to be built and repaired, when within a county.

bridge or causey, and to levy the charge thereof in their County levy. And where such bridge or causey shall be necessary from one County to another, the Court of each County shall join in the agreement for building and repairing the same, and the charge shall be defrayed by both Counties, in proportion to the public tax or assessment paid by each. Upon every such contract or agreement, bond and security shall be given by the Undertaker, payable to the Governor and his successors, for the use of the County or Counties, as the case shall be, with condition for performing the same, and may be prosecuted at the costs, and for the benefit of the County or Counties, or any person sustaining a loss by the breach thereof, as often as it shall happen, until the whole penalty of the bond shall be paid. And all such contracts made by County Courts, or others appointed by them, shall be available and binding upon the Justices and their successors, so as to entitle the Undertaker to his stipulated reward in the County levy, or to a recovery thereof, with costs, by action of debt, against the Justices refusing to levy the same.

When over any place between two counties.

VIII. WHEN the Justices of one County shall judge a bridge or causey over any place between them and another County to be necessary, they shall notify the same to the Justices of such other County, and require them to appoint three persons to meet at the said place on a certain day to be named by the Court requiring the same, to confer with three others, to be appointed by the said requiring Court, and agree on the manner and condition of executing the same; which six persons, or so many of them as meet, being not fewer than three, shall have power to agree on the manner and conditions of doing the said work, and to see that the same be done: And if the Court so required shall fail to appoint persons to act on their behalf, or to do what on their part should be done towards executing and paying for the said work, the Justices of the Court which made the requisition, shall apply to the General Court for a writ of *mandamus*, to be directed to the Justices of the other Court, commanding them to do, what on their part they ought to have done, and have failed to do, or to signify to them cause to the contrary thereof; upon the return of which writ, the General Court, if they shall be of opinion that the work is unnecessary, or that other sufficient cause is returned, shall quash the writ; or if they think otherwise, shall cause such further proceedings to be had as are usual in other cases of *mandamus* issuing from the said Court: And the like method of proceeding by way of *mandamus* shall be used, where the Justices of one County shall think it necessary to open a road to their County line, for the convenience of passing to some public place in another, and the Justices of such other shall refuse to continue the road through their County.

Penalty on persons obstructing or injuring roads or bridges.

IX. IF any person shall fell a tree into a public road, or into any stream of water, whereon there shall be any public bridge, and shall not remove the same within forty-eight hours, or shall kill a tree within the distance of fifty feet, from the road, or shall cut, pull up, destroy, or deface, any stone, or post, erected for the direction of travellers, or the indexes or inscriptions thereon, it shall be deemed a nuisance. Every free man, of full age, so offending, or the parent, master, or owner, of every child, apprentice, servant, or slave, so offending, with his or her knowledge, shall forfeit and pay ten pounds for every offence. And where any fence shall be made across a public road, the owner or tenant of the land shall pay ten shillings for every twenty-four hours the same shall be continued.

Owners of dams over which public roads pass, to keep them of a certain width.

X. THE owner or occupier of every dam over which a public road passes, shall constantly keep such dam in repair, at least twelve feet wide at the top, through the whole length thereof, and shall keep and maintain a bridge of like breadth, with strong rails on each side thereof, over the pier-head, flood-gates, or any waste, cut through or round the dam, under the penalty of ten shillings for every twenty-four hours failure; but where a mill-dam shall be carried away or destroyed by tempest, or accident, the owner or occupier thereof shall not be liable to the said penalties from thenceforth, until one month after such mill shall have been so repaired as to have ground one bushel of grain.

Penalties how to be recovered and appropriated.

XI. ALL the penalties in this Act, not otherwise directed, shall be one moiety to the informer, and the other to the use of the County, recoverable with costs, on warrant, petition, or action, as the case may be. Any Justice, who, upon his own view, shall discover a road, bridge, causey, or mill-dam, as aforesaid, out of repair, shall issue a warrant against the Surveyor, or other delinquent, and if no reasonable excuse be made for such default, may give judgment for the penalty and costs, not exceeding twenty-five shillings, or such

offenders may be presented by the Grand Juries; in all which cases of conviction, on view of a Justice, or presentment, or on private informations to Justices, where there shall be no evidence to convict the offender but the informer's own oath, the whole penalties shall be to the use of the County, towards lessening the levy thereof, and shall be annually collected and accounted for by the Sheriff, in the same manner as County levies; and to enable the Sheriff to make such collection, every Justice, immediately on conviction of any offender, where the penalty is to be to the County, shall certify the same to the Clerk of his County Court, who shall yearly, before the first day of March, deliver to the Sheriff a list of all the offenders so certified, and of all others convicted in Court, within one year preceding, of any offence against this Act.

XII. *PROVIDED*, That prosecutions for any offence herein mentioned, shall be commenced within six months after the offence committed, and not after.

To be prosecuted for within six months.

XIII. THIS Act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

Commencement of this act.

CHAP. XX.

An Act for establishing Religious Freedom.

[Passed the 26th of December, 1785.†]

I.† **W**HEREAS Almighty God hath created the mind free; that all attempts to influence it by temporal punishments or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the Holy Author of our religion, who being Lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his Almighty power to do; that the impious presumption of Legislators and Rulers, civil as well as ecclesiastical, who being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world, and through all time; that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor, whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness, and is withdrawing from the ministry those temporary rewards, which proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labours for the instruction of mankind; that our civil rights have no dependence on our religious opinions, any more than our opinions in physics or geometry; that therefore the proscribing any Citizen as unworthy the public confidence, by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously, of those privileges and advantages, to which, in common with his fellow-citizens, he has a natural right; that it tends only to corrupt the principles of that religion it is meant to encourage, by bribing with a monopoly of worldly honors and emoluments, those who will externally profess and conform to it; that though indeed these are criminal who do not withstand such temptation, yet neither are those innocent who lay the bait in their way; that to suffer the civil Magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency, will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is time enough for the rightful purposes of civil government, for its officers to interfere when principles break out into overt acts against peace and good order; and finally, that truth is great and will prevail if left to herself; that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human

Preamble:

† 1785, ch. 34.

† Well aware that—See Jefferson's Notes, where this act is truly inserted.

No man compelled to frequent or support any religious worship. All men free to profess, and by argument to maintain their religious opinions.

Declaration that the rights by this Act asserted, are of the natural rights of mankind.

interposition disarmed of her natural weapons, free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them :

II. *BE it enacted by the General Assembly*, That no man shall be compelled to frequent or support any religious worship, place, or Ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

III. AND though we well know that this Assembly elected by the people for the ordinary purposes of legislation only, have no power to restrain the Acts of succeeding Assemblies, constituted with powers equal to our own, and that therefore to declare this Act to be irrevocable, would be of no effect in law; yet we are free to declare, and do declare, that the rights hereby asserted, are of the natural rights of mankind, and that if any Act shall be hereafter passed to repeal the present, or to narrow its operation, such Act will be an infringement of natural right.

General Assembly, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 16th Day of *October*, in the Year of our Lord, 1786.

CHAP. XXI.

An Act forbidding and punishing Affrays.†

[Passed the 27th of November, 1786.†]

Punishment of persons going armed before Courts of Justice, or the Ministers of Justice, or in fairs or markets in terror of the Country.

BE it enacted by the General Assembly, That no man, great nor small, of what condition soever he be, except the Ministers of Justice in executing the precepts of the Courts of Justice, or in executing of their office, and such as be in their company assisting them, be so hardy to come before the Justices of any Court, or either of their Ministers of Justice, doing their office, with force and arms, on pain, to forfeit their armour to the Commonwealth, and their bodies to prison, at the pleasure of a Court; nor go nor ride armed by night nor by day, in fairs or markets, or in other places, in terror of the Country, upon pain of being arrested and committed to prison by any Justice on his own view, or proof by others, there to abide for so long a time as a Jury, to be sworn for that purpose by the said Justice, shall direct, and in like manner to forfeit his armour to the Commonwealth; but no person shall be imprisoned for such offence by a longer space of time than one month.

CHAP. XXII.

An Act against Conspirators.

[Passed the 27th of November, 1786.‖]

Who shall be deemed Conspirators.

BE it declared and enacted by the General Assembly, That Conspirators be they that do confederate and bind themselves by oath, covenant, or other alliance, that every of them shall aid and bear the other falsely and maliciously, to move or cause to be moved any indictment or information against another on the part of the Commonwealth, and those who are convicted thereof at the suit of the Commonwealth, shall be punished by imprisonment and amercement, at the discretion of a Jury.

CHAP. XXIII.

An Act prescribing the Punishment of those who sell unwholesome Meat or Drink,

[Passed the 27th of November, 1786.§]

Punishment of those who sell unwholesome

BE it enacted by the General Assembly, That a Butcher or other person that selleth the flesh of any animal dying otherwise than by slaughter, or slaugh-

† 1786, ch. 49. ‡ Commenced 1 July, 1787. ‖ 1786, ch. 50. § 1786, ch. 53.

tered when diseased, or a Baker, Brewer, Distiller, or other person, who selleth unwholesome bread or drink, shall, on conviction by the verdict of a Jury, the first time be amerced; the second time he shall suffer judgment of the pillory; and the third time he shall be imprisoned and make fine; and every time after he shall be adjudged to hard labour six months in the public works.

CHAP. XXIV.

An Act concerning Partitions and Joint Rights and Obligations.†

[Passed the 28th of November, 1786.‡]

I. **B**E it enacted by the General Assembly, That all joint tenants, or tenants in common, who now are, or hereafter shall be, of any estates of inheritance in their own rights, or in the right of their wives, and all joint tenants, or tenants in common, who now hold or hereafter shall hold, jointly, or in common, for term of life or years, with others who have, or shall have estates of inheritance, or freehold in any lands, tenements, or hereditaments, may be compelled to make partition between them, of such lands, tenements, and hereditaments, as they now hold, or hereafter shall hold, as joint tenants, or tenants in common, by writs *de partitione facienda*, the forms whereof shall be devised in the General Court, and adapted to the cases aforesaid: But no such partitions between joint tenants, or tenants in common, who hold or shall hold estates for term of life or years, with others holding equal or greater estates, shall be prejudicial to any entitled to the reversions or remainders, after the death of the tenants for life, or after the expiration of the years.

Joint tenants, and tenants in common, may be compelled to make partition.

II. IF partition be not made between joint tenants, whether they be such as might have been compelled to make partition, or not, or of whatever kind the estates or thing holden or possessed be, the parts of those who die first, shall not accrue to the survivors, but shall descend, or pass by devise, and shall be subject to debts, charges, curtesy, or dower, or transmissible to executors or administrators, and be considered to every other intent and purpose, in the same manner as if such deceased joint tenants had been tenants in common.

The part of a joint tenant dying first, not to accrue to the survivor.

III. THE Representatives of one jointly bound with another for the payment of a debt, or for performance or forbearance of any act, or for any other thing, and dying in the life-time of the latter, may be charged by virtue of such obligation, in the same manner as such Representatives might have been charged if the obligors had been bound severally, as well as jointly.

Representatives of one jointly bound, chargeable as in joint and several obligations.

IV. PARTITION may be demanded by one and the same writ, of all the several parcels of land or other real estate to which the parties have title, and execution thereupon done by the Sheriff and Jury, as heretofore, or by special Commissioners to be appointed by the Court, with assent of the parties, by allotment to each party of part in each parcel, or of parts in one or more parcels, or of one or more individual parcels, with or without the addition of a part or parts of other parcels, as shall be most for the interest of the parties in general.

Allotment of parcels in partitions.

V. NO plea in abatement shall be received in any suit for partition, nor shall it abate by the death of any tenant.

No plea in abatement to be received in suits for partitions.

VI. AFTER a writ of partition returned, affidavit being made by some credible person, that due notice of the writ had been given to the tenant or tenants to the action, and that a copy thereof had been left with him, her, or them, if he, she, or they could be found, or if not, that such notice had been given to, and a copy left with the wife, son, or daughter, being of the age of twenty-one years, or upwards, and at the usual place of abode of such as could not be found, or the person in actual possession, not being the demandant of the lands whereof partition is demanded, twenty days or more before the day of return, if the tenant or tenants shall not cause an appearance to be entered, at the time by law appointed, or within one month thereafter, the demandant having filed his or her declaration, the Court may proceed to examine his, or her title, and the quantity demanded, and shall give judgment by default, for so much as he or she shall appear to them to have a right to, and award a writ to make partition, which being executed, after eight days notice given to the persons mentioned before, judgment final shall thereupon be given, which

Mode of proceeding in writs of partition.

† The commencement of this act, was on the 1st of July, 1787. See acts of 1786, ch. 115.

‡ 1786, ch. 60.

shall be as binding as if it had been given after an appearance and upon a trial, unless any tenant within one year after the first judgment, or being an infant, a married woman, of unsound mind, or out of *Virginia*, within one year after attainment of full age, death of the husband, recovery of understanding, or return to the Country, respectively, by motion to the Court, either admitting the demandant's right and purpart, shall shew inequality in the partition, in which case the Court may award a new partition to be made, and that in presence of all the parties, if they choose to attend it, and the second partition shall be as binding as if the tenant had appeared and pleaded in the first instance, or else shall shew sufficient matter in bar of the partition, or that the demandant hath not title to so much as he or she hath recovered, in which case the Court may suspend or set aside the judgment, and admit the tenant to appear and plead, and the cause shall proceed as if no judgment had been given; and if upon the trial thereof, the Court shall give the same judgment as the first, it shall stand confirmed, and the person or persons, in whose behalf the motion was made, shall be awarded to pay costs.

When and how under Sheriffs may execute judgments in partitions.

Tenants to hold of landlords, to whom they may be allotted.

VII. THE Under-Sheriff, when the High-Sheriff cannot conveniently attend, may in presence of two Justices of the Peace, proceed to the execution of a Judgment in partition, by inquisition in due form of law, and the High-Sheriff shall make the same return as if he had acted in person.

VIII. THEY who are tenants of the messuages, lands, tenements, and hereditaments, or any part thereof, before they were divided, shall hold the same of the landlords, to whom they shall be allotted by the partition, in severalty, under the same conditions, rents, covenants, and reservations, and the landlords shall warrant the several parts unto the tenants, as they were bound to do by leases or grants, respectively: And any demandant who was tenant, in actual possession, to the tenant to the action, for his purpart of the messuages, lands, tenements, and hereditaments, divided by virtue of a writ of partition, or any part thereof, shall hold it for the same term, and under the same conditions and covenants when it shall be allotted in severalty.

CHAP. XXV.

An Act providing that Actions popular prosecuted by Collusion, shall be no Bar to those which be pursued with good Faith.

[Passed the 28th of November, 1786.†]

Plaintiff to a plea of recovery, may reply that it was had by covin.

I. **BE** it enacted by the General Assembly, That if any person hereafter sue with good faith any action popular, and any Defendant in the same action, plead any manner of recovery by action popular, in bar of the said action, or that he before that time barred any Plaintiff in any such action popular, then the Plaintiff in the action taken with good faith, may aver that the said recovery, in the said action popular, was had by covin, or else may aver that the said Plaintiff was barred in the said action popular by covin: Then if after, the said collusion or covin so averred be lawfully found, the Plaintiff in that action sued with good faith, shall have recovery according to the nature of the action, and execution upon the same, in like wise and effect as though no such afore had been had. *Provided always*, That no Plaintiff be in any wise received to aver any covin, in any action popular, where the point of the same action, or else the covin or collusion shall have been once tried, or lawfully found with the Plaintiff, or against him by trial of twelve men, and not otherwise.

Penalty for compounding or discontinuing actions for certain penalties.

II **IF** the Prosecutor of an action or information, for the recovery of any penalty not wholly appropriated to the use of such Proprietor, shall compound with the offender, or direct such suit or information to be discontinued, unless it be by leave of the Court wherein the said suit or information shall be depending, such Prosecutor shall be liable for so much of the penalty to the Commonwealth, or any other, as they would have been entitled to, if the Defendant had been convicted.

† 1786, ch. 63.

CHAP. XXVI.

An Act declaring when the Death of Persons absenting themselves shall be presumed.†

[Passed the 1st of December, 1786.]

BE it enacted by the General Assembly, That any person absenting himself beyond sea, or elsewhere, for seven years successively, shall be presumed to be dead, in any case wherein his death shall come in question, unless proof be made that he was alive within that time. But an estate recovered in any such case, if in a subsequent action or suit, the person presumed to be dead, shall be proved to be living, shall be restored to him who shall have been evicted; and he may moreover demand and recover the rents and profits of the estate, during such time as he shall have been deprived thereof, with lawful interest.

CHAP. XXVII.

An Act for reforming the Method of proceeding in Writs of Right.

[Passed the 2d of December, 1786.†]

I. **B**E it enacted by the General Assembly, That for trial of disputed titles to lands in a more simple mode than that which hath most commonly been used of late, the claimant or demandant of an estate in fee simple may sue forth against the possessor or tenant, a writ of *præcipe quod reddat*; which, issuing from the General Court, shall be in this form, or to this effect,

THE Commonwealth of Virginia, to the Sheriff of E. greeting: Command C. D. that he justly and without delay, render unto A. B. *tenement containing* of land, with the appurtenances in the County of E. which he claimeth to be his right, and whereof he complaineth that the aforesaid C. D. doth withhold the possession. And, unless he shall do so then summon the said C. D. that he appear before the Justices of our General Court, at on the day of the next Court, to shew wherefore he hath not done it. And have you then there this writ. Witness Chief Justice of our said Court, at the day of in the year

Form of the writ.

And issuing from the Court of a County, City, or Borough, in the like form, with necessary alterations; and shall be directed to the Sheriff of that County, or the proper officer of that City or Borough, wherein the Tenant resideth, or that wherein was his last place of abode. Upon which writ the Count shall be in this form, or to this effect;

E. to wit: A. B. by F. G. his Attorney, demands against C. D. *tenement, containing* of land, with the appurtenances, in the County of E. and bounded by . And whereupon the said A. B. saith that he hath right to have the tenement aforesaid, with the appurtenances, and offereth proof that such is his right. Count.

If several tenements be demanded in the same Count, the contents, situations, and boundaries of each shall be inserted therein. To which Count the Tenant may plead in this form, or to this effect;

AND the aforesaid C. D. by H. I. his Attorney, cometh and defendeth the right of the said A. B. when and where it behooveth him, and all that concerneth it, and whatsoever he ought to defend, and chiefly the tenement aforesaid. with the appurtenances as of right, namely, *tenement, containing* of land in the County of E. and bounded by and putteth himself upon the affize, and prayeth recognition to be made, whether he hath greater right to hold the tenement aforesaid with the appurtenances, as he now holdeth it (or them) or the said A. B. to have it as he now demandeth it (or them.) Plea.

And to such plea the replication shall be in this form, or to this effect;

AND the aforesaid A. B. in like manner putteth himself upon the affize, and prayeth recognition to be made whether he hath greater right to hold the tenement aforesaid as he demandeth, or the said C. D. as he holdeth it (or them.) Replication.

Whereupon twelve good and lawful men, qualified as Jurors are required to be, shall be elected, tried, and charged as the manner is, to make recognition of the affize; which charge shall be in this form, or to this effect; Jury.

† The commencement of this act was on the 1st of July, 1787. See acts of 1786, ch. 115.

‡ 1786, ch. 59.

Charge to the Jury.

What might have been specially pleaded may be given in evidence.

Judgment, execution, costs and damages.

Mode of proceeding if return be made that the tenant is not found.

YOU shall say the truth, whether C. D. hath more right to hold the tenement, which B. d. demandeth against him, by his Writ of Right, or A. B. to have it (or them) as he demandeth.

And at the trial, any matter may be given in evidence which might have been specially pleaded. And upon the verdict, or in the case of a demurrer, the like judgment shall be given, and upon such judgment, the like execution awarded, as in case of a writ of right; and the party, for whom judgment shall be given, shall recover his costs of suit; and the Demandant, if he recover his seisin, may also recover damages to be assessed by the recognitors of assize, for the Tenants withholding possession of the tenement demanded.

II. WHERE the *præcipe quod reddat* shall issue from the General Court, if return thereof be made that the Tenant is not found in the Bailiwick of the Officer to whom it was directed, the Demandant may sue forth a writ of *exigi facias*, in this form, or to this effect:

THE Commonwealth of Virginia to the Sheriff of E. greeting: We command you that you cause C. D. to be required from County Court to County Court, until five Courts be passed, if he doth not appear, and if he doth appear then summon him that he be before the Justices of our General Court, at on the day of the next Court, to shew wherefore he hath not rendered unto A. B. tenement containing of land, with the appurtenances, in the County of E. And have you then there this writ. Witness Chief Justice of our said Court, at the day of in the year

And when the residence or last place of abode of the Tenant shall be out of the County, in which the land demanded lieth, a like writ of *exigi facias* shall also be directed to the Sheriff of the latter County, and in either case a copy of such writ shall within four weeks after the teste thereof, be printed in the Virginia Gazette; and the said writ or writs of *exigi facias* being returned in due form, and being printed as aforesaid, if the Tenant shall not appear at the Court to which the same is or are returnable, judgment shall be entered, that the Demandant recover his seisin against the Tenant.

III. WHERE the *præcipe quod reddat* shall issue from the Court of a County, City, or Borough, if return thereof be made that the Tenant is not found in the Bailiwick of the officer to whom it was directed, the Demandant may sue forth a new *præcipe* every Court, for five Courts following, successively, if the Tenant be not by one or other of them before summoned; and when the residence or last place of abode of the Tenant shall be out of the County, City, or Borough, in which the land demanded lieth, a *testatum præcipe* shall also be directed to the Sheriff or proper Officer of the latter County, City, or Borough; and in either case a copy of the first of the said five *præcipes*, shall, within four weeks after the teste thereof, be printed in the Virginia Gazette, and a copy of that and every other of them, shall, within fourteen days after the teste of each, be set up at the door of his Courthouse, by the Officer to whom it shall be directed, and who, by an endorsement on such writ, shall be required by the Clerk to do so; and return of the said five writs being made, that the Tenant is not found in the bailiwick or bailiwicks of the Officer or Officers, to whom they were directed, and that they had been set up as is before directed, and the first of them being printed as aforesaid, if the Tenant shall not appear at the Court to which some one of the said writs was returnable, judgment shall be entered, that the Demandant recover his seisin against the Tenant; but if the Tenant, against whom, without having appeared, or without having been summoned, any such judgment shall be rendered, shall be out of Virginia, at the time of the suit brought, the judgment shall be no bar to an action commenced by him, or any claiming under him, to be restored to the land recovered, within a year and a day after he or they shall come into the Country, or remaining out of it, within seven years after the judgment; in which action, or in a separate one, damages may also be recovered.

Judgments against tenants in certain cases, no bar to actions brought by them.

Judgments by default.

IV. IF the Tenant whether summoned or not, shall appear, and afterwards make default, judgment shall be entered against him; and if having been summoned he shall not appear, the Court shall make an order, that, unless he appear at the then next Court, (a) or see judgment shall be entered against him, which shall be entered accordingly, if a copy of that order being delivered to him, or left at the place of his usual abode, fifteen days, or more, before such next Court, and affidavit thereof being made, he shall not then appear.

(a) The words "or see" are in the roll, but it is supposed were inserted by mistake.

V. IF the Demandant or Tenant, against whom any such judgment shall be rendered, at the time of the suit brought, shall be an infant, a married woman, or a person of unsound mind, the judgment shall be no bar to another action, commenced within five years after attainment of full age, discoverture, or recovery of understanding, or within the same time after the death of such privileged person.

Reservation of the rights of infants, females covert, and lunatics.

CHAP. XXVIII.

An Act for the Suppression and Punishment of Riots, Rout, and unlawful Assemblies.

[Passed the 4th of December, 1786 †]

I. **B**E it enacted by the General Assembly, That if any Riot, Assembly, or Rout of People, against the law, be made in any part of the Commonwealth, the Justices of Peace, three, or two of them at the least, and the Sheriff, or Under-Sheriff of the County, or Serjeant of a Corporation, as the case may be, where such Riot, Assembly, or Rout shall be made, shall come with the power of the County, (if need be) to arrest them, and shall arrest them; and the same Justices and Sheriff, Under-Sheriff, or Serjeant, shall have power to record that which they shall find so done in their presence against the Law, by which record such trespassers and offenders shall be convicted, and shall be taken and put in the Jail of the same County or Corporation, there to abide for so long time as shall be limited by a Jury, to be sworn by the Judges for that purpose, and further until they shall have paid such amercement as the same Jury shall assess.

Duty of the Justices in suppressing Riots, Routs &c. and in punishing the offenders;

II. AND if it happen that such trespassers and offenders be departed before the coming of the said Justices and Sheriff, Under-Sheriff, or Serjeant, the same Justices, three, or two of them, shall diligently enquire within a month after such riot, assembly, or rout of people so made, and thereof shall hear and determine according to Law; and for this purpose the Sheriff, or Serjeant, having a precept directed to him, shall return twenty-four fit persons, twelve of whom having been sworn, shall enquire of the said riot, rout, or unlawful assembly, and award, against those whom they shall find guilty thereof, due pains, by amercement and imprisonment, as is before directed; and if so many of them should not appear, those who make default shall be fined, by the same Justices, five pounds each; and if the default be in the Sheriff, Under-Sheriff, or Serjeant, he shall forfeit to the Commonwealth, twenty pounds.

III. AND if the said riot, rout, or unlawful assembly, be not found by the said Jury, by reason of any maintenance, embracery, partiality, or other misbehaviour of the said Jurors, then the said Justices, and the Sheriff, Under-Sheriff, or Serjeant, shall certify the whole matter and circumstances to the General Court, and also the names of the maintainers and embracers in that behalf, if any be, with their misdemeanours that they know, in order that they may be duly prosecuted, upon pain of every of the said Justices and Sheriff, Under-Sheriff, or Serjeant, to forfeit twenty pounds, if they have no reasonable excuse for not certifying the same, which certificate shall be of like force as the presentment of a Grand Jury; and thereupon the said trespassers and offenders being put to answer, they which shall be found guilty, shall be punished by imprisonment and amercement, according to the discretion of a Jury, as is before directed; and if the same trespassers do not appear before the General Court at the first precept, then shall another precept be directed to the Sheriff of the County, to take the said trespassers and offenders, if they may be found, and to bring them at a certain day before the General Court; and if they cannot be found, the Sheriff, Under-Sheriff, or Serjeant, shall make Proclamation in his full County, or Corporation, next ensuing the delivery of the second precept, that they shall appear before the General Court on a day named; and in case the same offenders come not as afore is said, and the Proclamation made and returned, they shall be convicted and attainted of the riot, assembly, or rout aforesaid.

How they shall be prosecuted in the General Court, in case they be not convicted and punished by the Justices.

IV. AND moreover, the Justices of Peace in every County or Corporation, where such riot, assembly, or rout of people shall be made, in case the same be made in their presence, or if none be present, then the Justices having notice thereof, together with the Sheriff, Under-Sheriff, or Serjeant, of the same

Penalty on Justices for neglect of the duties prescribed by this Act.

Duty of the General Court in case of such neglect.

Persons convicted of Riots, may be imprisoned for one year.

County or Corporation, shall do execution of this act, every one upon pain of twenty pounds, to be paid to the Commonwealth, as often as they shall be found in default of the execution of the said act.

V. AND on such default of the Justices and Sheriff, Under-Sheriff, or Serjeant, a commission shall go from the General Court at the instance of the party grieved, to enquire as well of the truth of the case, and of the original matter for the party complainant, as of the default or defaults of the said justices, Sheriff, Under-Sheriff, or Serjeant, in this behalf supposed, to be directed to sufficient and indifferent persons at the nomination of the Judges; and the said Commissioners presently shall return into the General Court the inquests and matters before them in this behalf taken and found:

VI. BUT no persons convicted of a riot, rout, and unlawful assembly, shall be imprisoned for such offence by a longer space of time than one year. Persons legally convicted of a riot, rout, or unlawful assembly, otherwise than in the manner directed by this Act, shall be punished by imprisonment and amercement, at the discretion of a Jury, under the like limitation.

CHAP. XXIX.

An Act prescribing a Method of protesting Inland Bills of Exchange, and allowing Assignees of Obligations to bring Actions thereupon in their own Names.†

[Passed the 4th of December, 1786.]

Mode of protesting inland bills of exchange.

I. **B**E it enacted by the General Assembly, That if a Bill of Exchange, for the sum of five pounds, or upwards, dated at any place in Virginia, drawn upon a person at any other place therein, expressed to be for value received, and payable at a certain number of days, weeks, or months after date, being presented to the person, upon whom it shall be drawn, shall not be accepted by subscribing his name, with his proper hand to the acceptance, written at the foot, or on the back of the Bill, or being accepted in that manner, and not otherwise, shall not be paid before the expiration of three days after it shall become due, the person to whom it shall be payable, or his Agent, or Assigns, may cause the Bill to be protested by a Notary Public, or if there be no such, by any other person in presence of two or more credible witnesses, for non-acceptance, in the form or to the effect following, written under a fair copy of the Bill:

Form of the protest.

KNOW all men, that I, _____, on the _____ day of _____, at the usual place of abode of the above named _____, presented to him the Bill, of which the above is a copy, and which the said _____ did not accept, wherefore I, the said _____, do hereby protest the said Bill. Dated at _____, this _____ day of _____;

Notice to the drawer.

Or for non-payment after acceptance, in the same form or to the same effect, except that the words "presented to him the Bill, of which the above is a copy, and which the said _____ did not accept," shall be left out, and instead of them, the words "demanded payment of the Bill, of which the above is a copy, and which the said _____ did not pay," be inserted: And the Drawer, such protest being sent to him, or notice thereof in writing being given to him, or left at the place of his usual abode, within fourteen days thereafter, shall pay the money mentioned in the Bill to the person entitled to it, with interest, at the rate of five per centum by the year, from the day of the protest; and he, to whom the Bill shall be payable, neglecting to procure the protest to be made, or due notice thereof to be given, shall be liable for all costs and damages accruing thereby.

New bills to be given when the first are lost.

II. IF the Bill shall be lost, or shall miscarry, the Drawer shall sign and deliver another of the same tenor, sufficient security being given to indemnify him against all persons who may claim under the former.

Action of debt may be maintained on a note or writing for money or tobacco.

III. AN action of debt may be maintained upon a Note or Writing, by which the person signing the same, shall promise or oblige himself to pay a sum of money or quantity of tobacco to another.

Assignments of bonds, bills, &c. valid, and assignees may sue in their

IV. ASSIGNMENTS of Bonds, Bills, and Promissory Notes, and other writings obligatory, for payment of money or tobacco, shall be valid; and an Assignee of any such, may thereupon maintain an action of debt, in his

† Commenced 1st July, 1787. See Acts 1786, ch. 115. Explained and amended in 1795, ch. 14.

‡ 1786, ch. 68.

own name, but shall allow all just discounts, not only against himself, but against the Assignor, before notice of the assignment was given to the Defendant.

own names, allowing just discounts.

CHAP. XXX.

An Act against conveying or taking pretended Titles.†

[Passed the 6th of December, 1786.†]

BE it enacted by the General Assembly, That no person shall convey or take, or bargain to convey or take, any pretended title to any lands or tenements, unless the person conveying or bargaining to convey, or those under whom he claims, shall have been in possession of the same, or of the reversion or remainder thereof, one whole year next before; and he who offendeth herein knowingly, shall forfeit the whole value of the lands or tenements; the one moiety to the Commonwealth, and the other to him who will sue as well for himself as for the Commonwealth: But any person lawfully possessed of lands or tenements; or of the reversion or remainder thereof, may nevertheless take or bargain to take the pretended title of any other person, so far, and so far only, as it may confirm his former estate.

Punishment of those who sell or purchase pretended titles to lands or tenements.

CHAP. XXXI.

An Act against Usury.§

[Passed the 8th of December, 1786.||]

I. **B**E it enacted by the General Assembly, That no person shall hereafter, upon any Contract, take directly or indirectly, for loan of any money, wares, or merchandise, or other commodity, above the value of five pounds,* for the forbearance of one hundred pounds for a year, and after that rate for a greater or lesser sum, or for a longer or shorter time; and all Bonds, Contracts, Covenants, Conveyances, or Assurances hereafter to be made, for payment or delivery of any money, or goods, so to be lent, on which a higher interest is reserved or taken, than is hereby allowed, shall be utterly void.

Rate of legal interest;

Bonds, contracts, conveyances, &c. for a greater rate, void.

II. IF any person shall, by any way or means of any corrupt bargain, loan, exchange, shift, covin, device, or deceit, take, accept or receive, for the loan of, or giving day of payment for money, wares, merchandise, or other commodity, above the rate of five pounds for one hundred pounds for one year, every person so offending, shall forfeit double the value of the money, wares, merchandise, or commodity so lent, exchanged, or shifted; one moiety to the use of the Commonwealth, and the other to the informer, to be recovered with costs.

Penalty on persons taking a greater rate.

III. ANY Borrower of money, or goods, may exhibit a Bill in Chancery against the Lender, and compel him to discover upon oath, the money or thing really lent, and all bargains, contracts, or shifts which shall have passed between them, relative to such loan, or the re-payment thereof, and the interest or consideration for the same; and if thereupon, it shall appear, that more than lawful interest was reserved, the Lender shall be obliged to accept his principal money, without any interest, or other consideration, and pay costs, but shall be discharged of all other penalties of this Act.

How relief may be obtained against usurious contracts.

IV. EVERY Broker, Solicitor, or Driver of Bargains, who shall hereafter directly or indirectly, take or receive more than the rate or value of five shillings, for brokerage, or soliciting the loan or forbearance of one hundred pounds for a year, or above one shilling for making or renewing the Bond or Bill, for such loan or forbearance, or for any Counter-Bond or Bill, concerning the same, shall forfeit for every offence, twenty pounds to the Commonwealth and informer, to be recovered and divided, as herein before is mentioned.

Rates of brokerage on loans.

† Commenced 1st July, 1787. See Acts of 1786, ch. 115.

‡ 1786, ch. 51.

§ Commenced 1st July, 1787. See Acts of 1786, ch. 115. Amended 1796, ch. 16.

|| 1786, ch. 55.

* Altered by Act of 1796, ch. 16—there 6 per cent. made lawful interest.

General Assembly, begun and held at the Public Buildings, in the City of Richmond, on Monday, the 15th Day of October, in the Year of our Lord, 1787.

CHAP. XXXII.

An Act to supply the Defect of Evidence of the Royal Assent to certain Acts of Assembly under the former Government.

[Passed the 14th of December, 1787.†]

Preamble.

I. **W**HEREAS divers Acts of the General Assembly of *Virginia*, as well public as private, were passed during the former regal Government, with clauses therein for their suspension, until the Royal approbation thereof respectively should be obtained, a notification of which assent when transmitted hither from Great-Britain, was registered in the Council books of that time; but as most of those books were lost or destroyed during the late war, persons who may be interested to prove the fact of such assent having been obtained, are deprived of that highest species of evidence, whereby many citizens may be involved in expensive and troublesome contentions, and in the private cases purchasers may lose not only their purchase-money, but valuable improvements: For remedy wherein,

What evidence may be received of the royal assent to certain Acts passed under the former government.

II. *BE it enacted by the General Assembly*, That from and after the passing of this Act, when in any Court of Law or Equity a question shall arise, whether an Act of Assembly passed with a clause suspending such Act until the Royal approbation thereof was obtained, hath received such approbation, every such question shall be discussed upon such evidence and circumstances as may be produced by the parties, without requiring either party to shew the official assent to such Act, or a certificate from the Council books that such assent was registered therein; any law, usage, or custom, to the contrary notwithstanding.

CHAP. XXXIII.

An Act for the Relief of Persons who have been, or may be injured by the Destruction of the Records of County Courts.

[Passed the 17th of December, 1787.‡]

Preamble.

I. **W**HEREAS the records of several County Courts within this Commonwealth, and other papers of consequence, have been, or may be destroyed by fraud, accident, or otherwise, to the great injury of the Citizens of this Commonwealth: For relief, therefore, of such persons whose estates, titles, or interests have been, or may be affected thereby;

County Courts to admit to record deeds, wills, bonds and other papers which have been recorded, or filed where the records have been destroyed.

II. *BE it enacted by the General Assembly*, That the Courts of the Counties where any such losses may have accrued, or shall hereafter accrue, when any original deeds, with an indorsement of the acknowledgment or proof thereof, and order for recording the same, attested by the Clerk of the Court, or the copies of any deeds with the indorsement so attested, or any wills, with the indorsement of the proof and the order for recording the same so attested, or of any judgment, decree, or order of Court, in like manner attested, or of any inventory or other document before admitted to record in such Court, and of all bonds, bills, notes, and all other papers necessarily filed in the office of such County, (the original of the same being lost, or otherwise destroyed) shall be produced to them, shall order the Clerk again to record all such original deeds, copies of deeds, or wills, with the said endorsemments respectively; and all such copies of judgments, decrees, and orders of the Court of their County, or of inventories or other documents; and the said Clerk, when he shall have recorded any thing in pursuance of this Act, shall indorse on the same that the original had been lost or destroyed, and shall make an entry to the same effect on the record with the thing recorded, which shall have the same operation and effect in Law, to all intents and purposes, as the original record would have had.

† 1787, *ch.* 20.

‡ 1787, *ch.* 17.

III. *AND be it also enacted*, That the Clerks of the several Counties shall do and perform the services in this Act mentioned, for the same fees that are allowed by law in other cases, for a copy of any thing herein before mentioned; and in like manner, shall take no other or greater fee for recording any deed which hath been already recorded, or shall be made only by occasion of the misfortune aforesaid, for settling the right or title of any person or persons whatsoever, to lands and tenements, slaves, or goods and chattels, than in other cases is, or shall be allowed by Law for the copy of any such deed; any law, usage, or custom, to the contrary notwithstanding.

Clerk's fees for recording them.

IV. *AND be it further enacted*, That it shall and may be lawful for the Governor, with the advice of Council, to issue one or more commissions, as the case may require, under the seal of the Commonwealth, to nine able and discreet persons directed, giving them, or any of them full power and authority to meet at some convenient place, by them to be appointed, and to adjourn from time to time as they shall think fit, and to summon, hear, and examine all witnesses, at the instance of any person, touching the premises, and to take their depositions in writing, and to return the same with such commission or commissions, to the Executive; which depositions shall be by them laid before the General Assembly at the next Session, to the end that they may be enabled to grant such effectual relief to the sufferers by the loss of the said records as to them shall seem just and reasonable. And the said commissioners shall have power to appoint some person skilled in clerkship, to attend them for keeping a journal of their proceedings, and drawing the depositions aforesaid; which person shall be paid for his services by each County respectively.

Governor and Council to appoint commissioners to take depositions respecting records destroyed.

Depositions to be laid before the General Assembly.

CHAP. XXXIV.

An Act to authorize the Establishment of Fire Companies.

[Passed the 7th of January, 1788.†]

I. **W**HEREAS the danger to which the several towns within this Commonwealth are exposed from fire, is chiefly occasioned by the want of Fire-Companies duly organized, and it is necessary that such companies be incorporated, in order to give them their full effect: *Be it enacted*, that it shall be lawful for any number of persons resident within any Town, Borough, or Corporation, within this Commonwealth, exceeding forty persons, to form themselves into a company or companies for the purpose of extinguishing fire, who, on having their names and subscriptions recorded in the Court of the County or Corporation where they reside, are hereby authorized to make such rules and regulations as to a majority of the said company or companies may seem proper and necessary for the procuring of Engines, and other necessary implements for working the said Engines, and exercising the companies raised. And that all fines and forfeitures for non-attendance or delinquency imposed by the said regulations, not exceeding twenty-five shillings, shall be recoverable before a single Magistrate on proof of such delinquency, which said fines and forfeitures shall be applied to the purposes of their institutions.

Preamble.

Fire-Companies, how to be formed.

May establish rules for their government.

Fines incurred by the members, how recoverable.

II. *PROVIDED always*, That all Bye-laws or rules to be made by virtue of this Act, which are contrary to the Constitution or Laws of the Commonwealth, shall be null and void.

Bye-laws not to contravene the constitution or laws.

General Assembly, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 20th Day of *October*, in the Year of our Lord, 1788.

1788.

CHAP. XXXV.

An Act to prevent the Importation of Convicts into this Commonwealth.

[Passed the 13th of November, 1788.†]

I. **W**HEREAS it has been represented to this General Assembly, by the United States in Congress, that a practice has prevailed for some time

Preamble.

† 1787. ch. 36.

† 1788. ch. 12.

No felons convict, under sentence of death, or other legal disability to be brought into the state.

Punishment of those who bring them or offer them for sale.

past, of importing felons convict into this State, under various pretences, which said felons convict so imported have been sold and dispersed among the people of this State, whereby much injury hath been done to the morals, as well as the health, of our fellow-citizens: For remedy whereof, *Be it enacted*, that from and after the first day of *January* next, no Captain or Master of any vessel, or any other person, coming into this Commonwealth, by land or by water, shall import, or bring with him, any person who shall have been a felon convict, or under sentence of death, or any other legal disability incurred by a criminal prosecution, or who shall be delivered to him from any prison or place of confinement, in any place out of the United States.

II. *AND be it further enacted*, That every Captain or Master of a vessel, or any other person, who shall presume to import, or bring into this Commonwealth, by land or by water, or shall sell or offer for sale, any such person as above described, shall suffer three months imprisonment, without bail or mainprize, and forfeit and pay for every such person so brought and imported, or sold or offered for sale, the penalty of fifty pounds current money of *Virginia*, one half to the Commonwealth, and the other half to the person who shall give information thereof; which said penalty shall be recovered by action of debt, or information in any Court of Record, in which the Defendant shall be ruled to give special bail.

CHAP. XXXVI.

An Act to disable certain Officers under the Continental Government from holding Offices under the authority of this Commonwealth.

[Passed the 8th of December, 1788.†]

Preamble,

I. **W**HEREAS the good people of this Commonwealth, in Convention assembled, did, on the twenty-fifth day of *June* last, ratify a Constitution for the Government of the United States of *America*, the operations of which will soon commence; and whereas it is judged expedient and necessary that all those who shall be employed in the administration of the said Government, ought to be disqualified from holding or administering any office or place whatsoever under the Government of this Commonwealth:

Officers under the United States incapable of holding offices under the Government of the State.

Disqualification not to extend to Militia Officers or Magistrates.

II. *BE it therefore enacted by the General Assembly*, That the members of the Congress of the United States, and all persons who shall hold any Legislative, Executive, or Judicial Office, or other Lucrative Office whatsoever, under the authority of the United States, shall be ineligible to, and incapable of holding any Seat in either House of the General Assembly, or any Legislative, Executive, or Judicial Office, or other Lucrative Office whatsoever under the Government of this Commonwealth. *Provided nevertheless*, that such disqualification shall not extend to militia Officers, or the Magistrates of County Courts.

CHAP. XXXVII.

An Act concerning the Credentials of the Senators, of this Commonwealth in Congress.

[Passed the 22d of December, 1788.†]

Governor to cause credentials to be delivered to the Senators.

Form of credentials;

I. **B**E it enacted by the General Assembly, That so soon as any election shall be made of Senators for this Commonwealth, in pursuance of the Constitution of the United States of *America*, the Clerk of the House of Delegates shall notify the same to the Governor, who shall cause a Credential to be made out, and the Seal of the Commonwealth affixed thereto, shall sign the same, and cause it to be delivered to each Senator; which Credential shall be in the words following:

VIRGINIA, to wit: *The Legislature of this Commonwealth, on the day of* . . . *one thousand seven hundred and* . . . *having, in pursuance of the Constitution for the United States of America, chosen* . . . *Esquire a Senator, I,* . . . *being Governor or Chief Magistrate of the Commonwealth, do hereby certify the same to the Senate of the said United States. Given under my hand, and the seal of the Commonwealth, this* . . . *day of* . . . *one thousand seven hundred and* . . .

A like notification shall be made, and a like Credential shall be delivered to *Richard Henry Lee*, and *William Grayson*, Esquires, respectively, who have been chosen Senators for this Commonwealth.

II. WHENEVER the Executive shall, by virtue of the said Constitution, make a temporary appointment of a Senator, a Credential shall be prepared with the forms and solemnities aforesaid, and shall be delivered to such temporary Senator, in the words following:

VIRGINIA, to wit: A. B. Esquire, who was duly chosen a Senator for this Commonwealth, in pursuance of the Constitution for the United States of America, having died (resigned, or otherwise, as the case may be) during the recess of the Legislature of the Commonwealth, I, _____, being Governor or Chief Magistrate of the Commonwealth, have therefore thought fit, by and with the advice and consent of the Privy Council, or Council of State, and by virtue of the said Constitution to appoint _____, Esquire, to be and act as a Senator for the Commonwealth, until the next meeting of the Legislature thereof. Given under my hand, and the seal of the Commonwealth, this day of _____ one thousand seven hundred and _____

In case of temporary appointments.

CHAP. XXXVIII.

An Act allowing travelling Expenses to the Judges of the General Court.

[Passed the 23d of December, 1788.†]

I. **B**E it enacted by the General Assembly, That in consideration of the additional services to be performed by the Judges of the General Court, as Judges of the District Courts, they shall receive (exclusive of their salaries established by Law) each the sum of sixpence per mile, for travelling to and from the Courts of their respective Circuits.

Judges allowed sixpence per mile.

II. THE Treasurer shall half yearly advance to each of the said Judges, upon the allowance hereby made to them, a sum for travelling expenses, not exceeding twenty-five pounds, to be accounted for by them respectively.

Treasurer to advance half yearly money for travelling expenses.

CHAP. XXXIX.

An Act concerning the Election of Members of the General Assembly.†

[Passed the 25th of December, 1788.‡]

I. **W**HEREAS the mode of contesting disputed Elections hath heretofore been found to be attended with great inconvenience and delay, Be it enacted by the General Assembly, that any person intending to contest the Election of any person returned to serve as a Senator or Delegate, from any County, shall, within twenty days after the assembling of the Sheriffs to make a return in the former case, or within ten days after the day of Election in the latter, give to the person returned to serve, notice thereof in writing; and moreover shall deliver to him at the same time, a list of those persons to whose votes he hath objection, distinguishing his several objections against the names of the voters; and where he hath any other objection to the legality of the Election, or the eligibility of the person returned, as aforesaid, he shall, in like manner, give notice thereof, distinguishing his particular objections; and the person returned as aforesaid, shall, within twenty days after receiving such notice, deliver the like lists on his part.

Preamble.

Notices and lists of exceptionable votes to be delivered by each to the other.

II. WHERE the contest is for the office of a Senator, any one or more of the Courts in the Senatorial District; or where it is for the office of a Delegate, the Court of the County, shall, upon the application of either party, appoint five Commissioners to take the depositions of such witnesses as shall be produced to them; any three of which said Commissioners shall be sufficient for the purpose. But no Commissioner shall act without having first taken, before some Justice, an oath to act impartially. Reasonable notice, in writing, of the time and place of taking such depositions, shall be given, by either party to the other.

Commissioners to take depositions, how to be appointed.

III. NOTICE in any of the cases before-mentioned, as well as the lists, left with his wife, or any other free person over the age of twenty-one years,

Notices how to be given.

† 1788, ch. 70.

‡ See pa. 19.

|| 1788, ch. 52.

belonging to his family, other than a Negro or Mulatto, or, in case of their absence, then at the dwelling-house, shall be deemed sufficient. The depositions shall be certified by the Commissioners taking the same, sealed up and sent by them to the Clerk of that House of which the person was returned a Member, without delay.

Complaints when to be lodged.

IV. COMPLAINT shall be lodged against a Member within ten days after the meeting of the Assembly, where the contested Election shall have been holden at the stated annual period, or within twenty days after the Election, where such Election shall have been holden in consequence of an intermediate vacancy; and the depositions taken as aforesaid, shall be, by the Clerk of each House, respectively, delivered to the Speaker thereof, to be committed with the petition of the party complaining, and shall be received and read as evidence upon the hearing thereof; subject, however, to the exceptions of the opposite party.

Witnesses how summoned and privileged.

V. SUBPOENAS for witnesses shall be issued by the Clerks of the County Courts upon the application of either party. And the witnesses shall be entitled to the same allowance, be privileged from arrests, and be subject to the like penalties, as witnesses attending the County Courts.

Penalty for voting twice at elections.

VI. IF any person shall vote a second time, at any Election, for Members of the General Assembly, he shall forfeit and pay ten pounds, to be recovered, with costs of suit, in any Court of Record, by action of debt, bill, plaint, or information, to the use of the person who will sue for the same.

County Courts may remit penalties for not voting.

VII. *AND be it further enacted*, That the Sheriff conducting the Election in any County in the District of Kentucky, shall, at the request of any one or more of the Candidates, adjourn the Election until the next day, although the Electors who appear be not too numerous to be polled before sun-setting, or there be no rain, or rise of water courses.

VIII. *AND be it further enacted*, That the several County Courts shall be empowered, for good cause to them shewn, to remit any penalty incurred by a Freeholder, for not having given his vote at any Election for a Delegate or Senator, according to law.

Repealing clause.

IX. SO much of every Act and Acts, as comes within the purview of this Act, shall be, and the same is hereby repealed.

CHAP. XL.

An Act concerning the Territory ceded by this Commonwealth to the United States.†

[Passed the 30th of December, 1788.†]

Assemble.

I. **W**HEREAS the United States in Congress assembled, did, on the seventh day of July, in the year of our Lord one thousand seven hundred and eighty-six, state certain reasons, shewing that a division of the Territory which hath been ceded to the said United States by this Commonwealth, into States, in conformity to the terms of Cession, should the same be adhered to, would be attended with many inconveniences, and did recommend a revision of the Act of Cession, so far as to empower Congress to make such a division of the said Territory into distinct and republican States, not more than five, nor less than three in number, as the situation of that Country and future circumstances might require: And the said United States in Congress assembled, have in an ordinance for the government of the Territory North-west of the river Ohio, passed on the thirteenth of July, one thousand seven hundred and eighty-seven, declared the following as one of the articles of compact between the original States, and the People and States in the said Territory, viz.

THAT there shall be formed in the said Territory not less than three, nor more than five States; and the boundaries of the said States, as soon as Virginia shall alter her Act of Cession; and consent to the same, shall become fixed and established as follows, to wit: The Western State in the said Territory, shall be bounded by the Mississippi, the Ohio, and Wabash rivers, a direct line drawn from the Wabash and Post Vincents, due North to the territorial line, between the United States and Canada, and by the said territorial line to the Lake of the Wood and Mississippi: The middle State shall be bounded by the said direct line, the Wabash from Post Vincents to the

† *Vide ante*, ch. 7.

† 1783, ch. 79.

Ohio, by the Ohio, by a direct line drawn due North from the mouth of the Great Miami, to the said territorial line, and by the said territorial line. The Eastern State shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line. Provided however, and it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said Territory which lies North of an East and West line, drawn through the Southern bend or extreme of Lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted by its Delegates into the Congress of the United States, on an equal footing with the original States in all respects whatsoever, and shall be at liberty to form a permanent Constitution and State Government, provided the Constitution and Government so to be formed shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the Confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

And it is expedient that this Commonwealth do assent to the proposed alteration, so as to ratify and confirm the said Article of Compact between the original States, and the People and States in the said Territory.

II. *BE it therefore enacted by the General Assembly, That the afore-recited Article of Compact between the original States, and the People and States in the Territory North-west of Ohio river, be, and the same is hereby ratified and confirmed, any thing to the contrary, in the deed of Cession of the said Territory by this Commonwealth to the United States, notwithstanding.*

An article of the compact between the United States and the people and states North-West of the Ohio, ratified by this Commonwealth.

*General Assembly, begun and held at the Capitol, in the City of Richmond, on Monday, the 19th Day of October, in the Year of our Lord, 1789.**

1789.

CHAP. XLI.

An Act for the safe keeping of Prisoners committed under the Authority of the United States, into any of the Jails of this Commonwealth †

[Passed the 12th of November, 1789.]

I. *BE it enacted by the General Assembly, That it shall be the duty of the Keeper of the Jail in every District, County, or Corporation within this Commonwealth, to receive into his custody any prisoner or prisoners, who may be from time to time committed to his charge, under the authority of the United States, and to safe keep every such prisoner or prisoners according to the warrant or precept of commitment, until he shall be discharged by the due course of the laws of the United States.*

Jailors to receive or prisoners of the United States.

II. *AND be it further enacted, That the Keeper of every Jail aforesaid, shall be subject to the same pains and penalties for any neglect or failure of duty herein, as he would be subject to, by the laws of this Commonwealth, for a like neglect or failure, in the case of a prisoner committed under the authority of the said laws.*

Penalties on them for neglect of duty.

III. *PROVIDED always, That the United States do pay or cause to be paid for the use and keeping of such Jails, at the rate of fifty cents per month, for each prisoner, that shall under their authority be committed thereto, during the time such prisoner shall be therein confined, and moreover, do support such of the said prisoners, as shall be committed for offences.*

United States to pay for the use of the jail, and to support prisoners committed for offences.

* *As the act of 1789, ch. 9, which declares that every act shall commence on the 1st of March ensuing, unless in the act itself another day be mentioned for its commencement, was not in force till the 15th of January, 1790, I suppose, that under the 22d sec. of the act in this book (pa. 23) concerning election of members of Assembly, this and all the following acts of 1789, in this vol. commenced from the passing thereof.*

† See Acts of 1795, ch. 3.

CHAP. XLII.

An Act authorising the Governor of this Commonwealth, to convey certain Land to the United States, for the purpose of building a Light-House.

[Passed the 13th of November, 1789.†]

The Governor to convey land at Cape Henry to the United States.

United States to build thereon a Light-House; to support, repair, and re-build it when necessary.

If not built within seven years, or rendered useless for the same period, the land to revert to the Commonwealth.

The right of the state to certain materials lying thereon, and of its citizens to fish on the shores thereof, not to be affected.

I. **BE** it enacted by the General Assembly, That it shall and may be lawful for the Governor of this Commonwealth, and he is hereby fully authorised, for and in behalf of this Commonwealth, by proper deeds and instruments in writing, under his hand and the Seal of this Commonwealth, to convey, transfer, assign, and make over unto the United States in Congress assembled, for the use of the said United States, all interest in, and right and title to, as well as all the jurisdiction which this Commonwealth possesses, over so much of the public lands, not exceeding two acres, situate, lying and being in the County of *Princeps Anne*, at a place commonly called the head land of *Cape Henry*, as shall be sufficient to erect a Light-House, subject to the terms and conditions following; that is to say, that a Light-House shall be erected upon the said land, and that all charges and expenses of building, and re-building, when necessary, and keeping in good repair, the said Light-House, together with the salaries, wages or hire of the person or persons appointed by the President of the United States for the superintendence and care of the same, and all the necessary supplies, with which a Light-House ought to be furnished, shall be defrayed out of the Treasury of the United States: If a Light-House shall not be erected within the space of seven years, after the Cession of the said two acres of land, by this Commonwealth to the United States in Congress assembled; or if at any time thereafter, the said Light-House shall be suffered to fall into decay, or be rendered useless, as to the purposes for which it is to be erected, and so continue for the aforesaid period of seven years, then and in those cases, the property in the soil and Jurisdiction, over the territory hereby directed to be vested in the United States in Congress assembled, shall revert to this Commonwealth, and be considered as the property, and subject to the jurisdiction of the same, in like manner, as if this Act had never been made.

II. *PROVIDED*, That nothing in this Act contained, shall be construed to affect the right of this State to any materials heretofore placed at or near *Cape Henry*, for the purpose of erecting a Light-House; and that the Citizens of this Commonwealth shall not, in consequence of this Cession, be debarred from the privileges they now enjoy, of hauling their seines and fishing on the shores of the said land so ceded by this Act, to the United States, for the purpose of building a Light-House.

CHAP. XLIII.

An Act concerning Homicide by Misfortune.‡

[Passed the 18th of November, 1789.]

Any person killing another without felony, to be acquitted.

BE it enacted by the General Assembly, That in case it be found by the Country, that any man by misfortune, or in his own defence, or in other manner without felony, did kill another, he shall be acquitted.

CHAP. XLIV.

An Act allowing a Bill of Exceptions to be Sealed.

[Passed the 18th of November, 1789.¶]

Bills of exceptions to be sealed.

If exceptions be omitted in the record, Justices to be summoned

BE it enacted by the General Assembly, That when one impleaded before any Court, and in any cause, where Appeal, Writ of Error, or Superfedeas lies to a higher Court, doth alledge an Exception, praying that the Justices will allow it, if they will not allow it, and he that alledgeth the Exception, do write the same Exception, and require that the Justices will put their seals in testimony thereof, the Justices, or the greater part of them present shall so do; and if such higher Court upon complaint made of the said Justices, cause the Record to come before them, and the same Exception be not found in the roll, and the Plaintiff shew the Exception written, with the seals of the Jus-

† 1789, ch. 5. ‡ Commenced as last; see acts 1789, ch. 9. ¶ 1789, ch. 12.

tices put to it, the Justices shall be commanded, that they appear at a certain day, either to confess or deny their seals; and if the Justices cannot deny their seals, they shall proceed to judgment according to the same Exception, as it ought to be allowed or disallowed.

CHAP. XLV.

An Act against those who counterfeit Letters or Privy Tokens, to receive Money or Goods in other Mens Names.

[Passed the 18th of November, 1789.†]

I. **W**HEREAS many evil disposed persons, have falsely and deceitfully contrived, devised and imagined Privy Tokens and Counterfeit Letters in other mens names, unto divers persons, their special friends and acquaintances, for the obtaining of money, goods and chattels of the same persons, their friends and acquaintances, by colour whereof the said evil disposed persons, have deceitfully and unlawfully obtained and gotten great substance of money, goods and chattels into their hands and possession, contrary to right and conscience: Preamble.

II. *BE it enacted by the General Assembly*, That if any person or persons, shall falsely and deceitfully obtain or get into his or their hands or possession, any money, goods or chattels of any other person or persons, by colour and means of any such false Token, or Counterfeit Letter, made in any other man's name as is afore said; every such person and persons so offending, and being thereof lawfully convicted in the Court of the District, in which such offence shall have been committed, shall have and suffer such correction and punishment, by imprisonment of his body, without bail or mainprize, for any space, not exceeding one year, and setting upon the pillory, as shall be unto him, or them, limited, adjudged or appointed by the said Court. Any person obtaining another's money or goods by false tokens, to be imprisoned and set upon the pillory.

III. *SAVING* to the party grieved by such deceit, such remedy by way of action or otherwise, of and for the same money, goods and chattels so obtained, as he might have had, if this Act had never been made; any thing in the same contained to the contrary, in any wise notwithstanding. Person injured, not to lose his remedy by action.

CHAP. XLVI.

An Act against the embezzling of Records.†

[Passed the 19th of November, 1789.‡]

BE it enacted by the General Assembly, That if any Record, or parcel of the same, Writ, Return, Panel, Process, or Warrant of Attorney, in any Court within this Commonwealth be willingly stolen, taken away, withdrawn, or avoided, by any Clerk, or by any other person, because whereof, any judgment shall be reversed, such stealer, taker away, withdrawer, or avoider, their procurers, counsellors and abettors, being thereof indicted, and duly convicted, by their own confession, or by inquest to be taken of lawful men, shall be judged for Felons, and shall incur the pain of felony. Felony to steal or procure to be stolen any record, writ, or process, whereby any judgment shall be reversed.

CHAP. XLVII.

An Act concerning the Benefit of Clergy.§

[Passed the 27th of November, 1789.¶]

I. **B**E it enacted and declared by the General Assembly, That the Benefit of Clergy shall not be allowed to principals in the first degree, First, in Murder; secondly, or in Burglary; thirdly, or in Arson at Common Law; fourthly, or for the wilful burning of any Court-house, or County or Public Prison, or of the Office of the Clerk of any Court within this Commonwealth; fifthly, or for the felonious taking of any goods or chattels out of any Church, Chapel, or Meeting-House belonging thereto; sixthly, or for the robbing of any person or persons in their Dwelling-houses or Dwelling-place, the Owner or Dweller in the same House or Dwelling-place, his wife, his children, or servants, then being within, and put in fear and dread by the same; seventh-

† 1783, ch. 15. ‡ Commenced as last; see 1789, ch. 9. || 1789, ch. 16.

§ Commenced as above. ¶ 1789, ch. 22.

ly, or for the robbing of any person or persons in or near about any highway; eighthly, or for the felonious stealing of any Horse, Gelding, or Mare; ninthly, or for the felonious breaking of any Dwelling-house by day, and taking away of any goods or chattels, being in any Dwelling-house, the owner or any person being therein and put in fear.

Or in the second degree.

II. THE Benefit of Clergy shall not be allowed to principals in the second degree, in any of the cases abovementioned.

In what offences, not allowed to accessaries before the fact.

III. IT shall not be allowed to accessaries before the fact, first, in Murder; secondly, or Burglary; thirdly, or Arson at common Law; fourthly, or for the wilful burning of any Court-house, or County, or Public Prison, or of the Office of the Clerk of any Court within this Commonwealth; fifthly, or for the robbing of any person or persons in their Dwelling-houses or Dwelling-places, the Owner or Dweller in the same Dwelling-house or Dwelling-place, his wife, his children or servants then being within and put in fear and dread by the same; sixthly, or for the robbing of any person or persons in or near about any Highway.

When allowed, unless expressly taken away by Act of Assembly.

IV. IT shall be allowed to principals and accessaries in all offences which would otherwise be without Clergy, whether the same be newly created by any Act of the General Assembly, or exist under the common Law, unless it be taken away by the express words of some Act of Assembly.

How often.

V. IT shall not be allowed to any person more than once, except in the following case, that is to say: Whensoever any person shall have been admitted to the Benefit of Clergy, such admission shall not operate as a pardon or discharge for other offences of a Clergyable nature, committed by him before that admission to the Benefit of Clergy, but he shall be again allowed the Benefit of Clergy for every other offence of a Clergyable nature committed by him before that admission to the Benefit of Clergy, and shall be burned in the hand for every such offence.

VI. BUT if any person who shall have been once admitted to the Benefit of Clergy, shall before that admission have committed any offence, in which the Benefit of Clergy is not allowed by Law, or shall after that admission commit any offence in which the Benefit of Clergy is even allowed by Law, he shall suffer death without the Benefit of Clergy.

Females entitled to it, in like manner as males.

VII. A FEMALE shall in all cases receive the same judgment, and stand in the same condition with respect to the Benefit of Clergy, as a Male.

And slaves as free Negroes or Mulattoes.

VIII. A SLAVE shall in all cases receive the same judgment, and stand in the same condition, with respect to the Benefit of Clergy, as a free Negro or Mulatto.

Not taken away by this Act, when expressly allowed by any other, or allowed, when expressly taken away.

IX. NOTHING in this Act contained, shall be construed to take away the Benefit of Clergy, from any offence, in which it is now allowed by any Act of the General Assembly, or to allow it in any offence, from which it is now expressly taken away, by any act of the General Assembly.

CHAP. XLVIII.

An Act against such as shall procure or commit wilful Perjury, and against Embracery.†

[Passed the 1st of December, 1789.†]

Suborners of witnesses, how punished.

I. **B**E it enacted by the General Assembly, That all and every person and persons who shall unlawfully and corruptly procure any witness or witnesses by letters, rewards, promises, or by any other sinister and unlawful labour or means whatsoever, to commit any wilful and corrupt Perjury in any matter or cause whatsoever, now depending, or which hereafter shall depend in suit and variance by any writ, action, bill, complaint, or information in any wise touching or concerning any lands, tenements, or hereditaments, or any goods, chattels, debts or damages in any of the Courts of this Commonwealth; or shall likewise unlawfully and corruptly procure or suborn any witness or witnesses which shall be sworn to testify *in perpetuam rei memoriam*, or any criminal prosecution, or in any examination or controversy before a Justice or Justices of the Peace, or before any Commissioners appointed to take depositions, that then every such offender or offenders, shall for his, her, or their said offence, being thereof lawfully convicted, be adjudged to pay a fine not exceeding two hun-

† Commenced as last.

† 1789, ch. 26.

dred pounds, and to suffer imprisonment for the space of one year, without bail or mainprize.

II. *AND be it further enacted*, That if any person or persons, either by the subornation, unlawful procurement, sinister persuasion, or means of any other, or by their own act, consent or agreement, wilfully and corruptly commit any manner of wilful Perjury by his or their deposition, in any of the Courts of this Commonwealth, or before any Justice or Justices of the Peace, or before any Commissioners appointed to take depositions, or being examined *in perpetuam rei memoriam*, that then every person and persons so offending, and being thereof duly convicted, shall for his or their said offence be adjudged to pay a fine not exceeding one hundred pounds, and to suffer imprisonment by the space of six months without bail or mainprize, and the oath of such person or persons so offending in any of the cases of perjury or subornation of perjury in this act mentioned, from thenceforth shall not be received in any Court within this Commonwealth, until such time as the judgment given against such person or persons shall be reversed.

Persons guilty of perjury, how punished.

Their oaths not to be received in any court.

III. IF any Juror upon any Inquest whatsoever shall take any thing by himself, or another to give his verdict, and shall be thereof convicted, such Juror shall not thereafter be put on any Jury, and shall pay ten times as much, as he shall have taken; whereof one half shall go to him, who will sue for the same, and the other half to the Commonwealth.

Penalty on a juror for taking any thing for giving his verdict.

IV. EVERY Embracer, who shall procure any Juror to take gain or profit, shall be punished by fine not exceeding two hundred pounds, and imprisonment not exceeding one year.

Embracers, how punished.

CHAP. XLIX.

An Act to provide against the Appropriation of Money, by Resolution of the Two Houses of Assembly.

[Passed the 3d of December, 1789.†]

I. **W**HEREAS in the passing of those Legislative Acts, which are known under the name of Laws as distinguished from other Acts, which are commonly called Resolutions, certain forms and solemnities have been established for the purpose of obtaining that deliberation which the matter of Laws generally requires; and it hath been the practice of the General Assembly, to grant large sums of money by Resolutions, which are confirmed on a single reading:

Preamble.

II. *BE it enacted by the General Assembly*, That no sum of money shall be voted for any use whatsoever by a Resolution only, except where, by some previous Law, a sum of money shall have been appropriated, and by such Resolution, the whole or a part thereof may be particularly applied in pursuance of the said Law.

No money to be voted by resolution, unless there hath been an appropriation by law.

CHAP. L.

An Act for the Cession of Ten Miles Square, or any lesser Quantity of Territory within this State, to the United States, in Congress assembled, for the permanent Seat of the General Government.

[Passed the 3d of December, 1789.‡]

I. **W**HEREAS the equal and common benefits resulting from the administration of the General Government will be best diffused, and its operations become more prompt and certain, by establishing such a situation for the Seat of the said Government, as will be most central and convenient to the Citizens of the United States at large, having regard as well to population, extent of territory, and a free navigation to the Atlantic Ocean, through the Chesapeake bay, as to the most direct and ready communication with our Fellow-Citizens in the Western Frontier: And whereas it appears to this Assembly, that a situation combining all the considerations and advantages before recited, may be had on the banks of the river Potomac, above tide water, in a country rich and fertile in soil, healthy and salubrious in climate, and abounding in all the necessities and conveniences of life, where, in a location of ten

Preamble.

Tract of country within this State, ceded to the United States for the seat of the general government.

Reservation of the rights of individuals to the soil.

When the jurisdiction of the laws of this Commonwealth over the same, shall cease.

miles square, if the wisdom of Congress shall so direct, the States of *Pennsylvania, Maryland and Virginia* may participate in such location :

II. *BE it therefore enacted by the General Assembly*, That a tract of country, not exceeding ten miles square, or any lesser quantity, to be located within the limits of this State, and in any part thereof as Congress may by Law direct, shall be, and the same is hereby for ever ceded and relinquished to the Congress and Government of the United States, in full and absolute right, and exclusive jurisdiction as well of soil, as of persons, residing or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the Constitution of Government of the United States.

III. *PROVIDED*, That nothing herein contained, shall be construed to vest in the United States, any right of property in the soil, or to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States.

IV. *AND provided also*, That the jurisdiction of the Laws of this Commonwealth, over the persons and property of individuals residing within the limits of the Cession aforesaid, shall not cease or determine, until Congress, having accepted the said Cession, shall by Law provide for the Government thereof, under their jurisdiction, in manner provided by the article of the Constitution before recited.

CHAP. LI.

An Act for the Relief of Creditors against fraudulent Devises.

[Passed the 17th of December, 1789.†]

Preamble.

I. **W**HEREAS it is not reasonable or just, that by the practice or contrivance of any Debtors, their Creditors should be defrauded of their just debts, and nevertheless it hath often so happened, that where several persons, having by Bonds or other Specialties bound themselves and their Heirs, have afterwards died, seized in fee-simple of, and in Messuages, Lands, Tenements, and Hereditaments, or having power or authority to dispose of, or charge the same by their Wills or Testaments, have to the defrauding of such their Creditors by their last Wills or Testaments devised the same, or disposed thereof in such manner as such Creditors have lost their said debts: For remedying of which, and for the maintenance of just and upright dealing,

Devises of lands, &c. void as to creditors.

II. *BE it enacted by the General Assembly*, That all Wills and Testaments, limitations, dispositions or appointments, of, or concerning any Messuages, Lands, Tenements or Hereditaments, or of any rent, profit, term or charge out of the same, whereof any person or persons, at the time of his, her, or their decease, shall be seized in fee-simple in possession, reversion, or remainder, or have power to dispose of the same by his, her, or their last Wills or Testaments, shall be deemed and taken (only as against such Creditor or Creditors as aforesaid, his, her and their Heirs, Successors, Executors, Administrators and Assigns, and every of them) to be fraudulent, and clearly, absolutely and utterly void, frustrate and of none effect; any pretence, colour, feigned or presumed consideration, or any other matter or thing to the contrary, notwithstanding.

Who may sue heirs and devisees jointly.

III. *AND* for the means that such Creditors may be enabled to recover their said debts, *Be it further enacted*, that in the cases beforementioned, every such Creditor shall and may have and maintain, his, her and their action, and actions of debt, upon his, her, and their said Bonds and Specialties, against the Heir and Heirs at Law of such Obligor or Obligors, and such Devisee and Devisees, jointly by virtue of this Act; and such Devisee or Devisees, shall be liable and chargeable for a false plea by him or them pleaded, in the same manner as any Heir should have been for any false plea by him pleaded, or for not confessing the Lands or Tenements to him descended.

Exception of devisees, &c. to pay just debts, or portions in pursuance of any marriage contract.

IV. *PROVIDED always, and be it enacted by the authority aforesaid*, That where there hath been, or shall be any limitation or appointment, devise or disposition, of, or concerning any Messuages, Lands, Tenements or Hereditaments, for the raising or payment of any real and just debt or debts, or any portion or portions, sum or sums of money, for any child or children of any person, other than the Heir at Law, according to, or in pursuance of any marriage

contract or agreement in writing, *bona fide* made before such marriage, the same and every of them shall be in full force; and the same Messuages, Lands, Tenements and Hereditaments, shall and may be holden and enjoyed by every such person or persons, his, her, and their Heirs, Executors, Administrators, and Assigns, for whom the said limitation, appointment, devise or disposition was made, and by his, her, and their Trustee or Trustees, his, her, and their Heirs, Executors, Administrators, and Assigns, for such estate or interest as shall be so limited or appointed, devised or disposed, until such debt or debts, portion or portions, shall be raised, paid and satisfied; any thing in this Act contained to the contrary notwithstanding.

V. AND whereas several persons being Heirs at Law, to avoid the payment of such just debts, as in regard of the Lands, Tenements, and Hereditaments, descending to them, they have by law been liable to pay, have sold, aliened, or made over such Lands, Tenements, or Hereditaments, before any process was or could be issued out against them:

VI. *BE it further enacted*, That in all cases where any Heir at Law shall be liable to pay the debt of his Ancestor in regard of any Lands, Tenements, or Hereditaments, descending to him, and shall sell, aliene or make over the same, before any action brought, or process sued out against him, such Heir at Law shall be answerable for such debt or debts, in an action or actions of debt, to the value of the said Land so by him sold, aliened, or made over; in which cases all Creditors shall be preferred, as in actions against Executors and Administrators, and such Execution shall be taken out upon any judgment or judgments so obtained against such Heir, to the value of the said Land, as if the same were his own proper debt or debts, saving that the Lands, Tenements, and Hereditaments, *bona fide* aliened before the action brought, shall not be liable to such Execution.

In what manner an heir is answerable where he alienes the lands descended.

VII. *PROVIDED always, and be it further enacted*, That where any action of debt upon any specialty is brought against any Heir, he may plead *riens per discent* at the time of the original writ brought, or the bill filed against him, any thing herein contained, to the contrary notwithstanding; and the Plaintiff in such action may reply that he had Lands, Tenements, or Hereditaments from his Ancestor before the original writ brought, or bill filed; and if upon issue joined thereupon, it be found for the Plaintiff, the Jury shall enquire of the value of the Lands, Tenements or Hereditaments so descended, and thereupon Judgment shall be given, and Execution shall be awarded as aforesaid; but if Judgment be given against such Heir by confession of the action, without confessing the assets descended, or upon demurrer or *nihil dicit*, it shall be for the debt and damages, without any writ to enquire of the Lands, Tenements, or Hereditaments, so descended.

Heir may plead *riens per discent*.

Jury to enquire of the value of the lands if found against him; such enquiry unnecessary where there is judgment by confession, or *nihil dicit*.

VIII. *PROVIDED also, and be it further enacted*, That all and every devisee and devisees made liable by this Act, shall be liable and chargeable in the same manner as the Heir at Law by force of this Act, notwithstanding the Lands, Tenements and Hereditaments to him or them devised, shall be aliened before the action brought.

Devisees liable as heirs, in case of alienation of the land.

CHAP. LII.

An Act concerning Awards.

[Passed the 17th of December, 1789.]

I. *BE it enacted by the General Assembly*, That it shall and may be lawful for all Merchants, and Traders, and others desiring to end any controversy, suit or quarrel, for which there is no other remedy but by personal action or suit in equity, by arbitration, to agree, that their submission of the suit to the award or umpirage of any person or persons should be made a rule of any Court of Record which the parties shall choose, and to insert such their agreement in their submission or the condition of the bond or promise, whereby they oblige themselves, respectively, to submit to the award or umpirage of any person or persons; which agreement being so made and inserted in their submission or promise, or condition of their respective bonds, shall or may, upon producing an affidavit thereof made by the witnesses thereunto, or any one of them, in the

A submission to arbitration may be made a rule of any Court of Record.

† 1789, *ch.* 46.

Court of which the same is agreed to be made a rule, and reading and filing the said affidavit in Court, be entered in the proceedings of such Court, and a rule shall be made thereupon by the said Court, that the parties shall submit to and finally be concluded by the arbitration or umpirage, which shall be made concerning them by the arbitration or umpire pursuant to such submission.

Awards to be entered as the judgment of such court, and execution issued thereon.

For what conduct of the arbitrators or umpire, such award may be set aside.

When complaint must be made thereof.

Not to affect the power of courts of equity over awards.

II. AND the award made in pursuance of such submission may be entered up as the judgment or decree of the Court, and the same execution or process may issue thereupon as on other judgments or decrees, and the Court shall not invalidate such award, arbitrament, or umpirage, unless it be made appear to such Court, that such award, arbitrament, or umpirage was procured by corruption or other undue means, or that there was evident partiality or misbehaviour in the arbitrators or umpires, or any of them. And any award, arbitrament, or umpirage procured by corruption or other undue means, or where there shall have been such evident partiality or misbehaviour as aforesaid, shall be deemed and judged void and of none effect, and accordingly set aside by the Court in which the submission shall be made, so as complaint of such corruption or undue means, or evident partiality or misbehaviour as aforesaid, be made before the end of the second Court of quarter Sessions in the case of a County Court, or at the end of the second term of any other Court next after such award, arbitrament, or umpirage be made and returned to such Court.

III. *PROVIDED nevertheless*, That nothing herein contained, shall be construed to take away from Courts of Equity their power over awards, arbitraments, or umpirages.

CHAP. LIII.

An Act concerning the Erection of the District of Kentucky into an Independent State

[Passed the 18th of December, 1789.†]

Preamble.

I. **W**HEREAS it is represented to this present General Assembly, that the Act of last Session, intituled, "*An Act concerning the Erection of the District of Kentucky into an Independent State*," which contains terms materially different from those of the Act of October Session, one thousand seven hundred and eighty-five, are found incompatible with the real views of this Commonwealth, as well as injurious to the good people of the said District:

Representatives to compose a convention, to be elected in the Kentucky district.

Qualification of the electors.

BE it enacted by the General Assembly, That in the month of May next, on the respective Court days of the Counties within the said District, and at the respective places of holding Courts therein, Representatives to continue in appointment for one year, and to compose a Convention with the Powers, and for the purposes herein after mentioned, shall be elected by the free male inhabitants of each County above the age of twenty-one years, in like manner as Delegates to the General Assembly have been elected within said District, in the proportions following: In the County of *Jefferson* shall be elected five Representatives; in the County of *Nelson* five Representatives; in the County of *Mercer* five Representatives; in the County of *Lincoln* five Representatives; in the County of *Madison* five Representatives; in the County of *Fayette* five Representatives; in the County of *Woodford* five Representatives; in the County of *Bourbon* five Representatives, and in the County of *Mason* five Representatives: *Provided*, that no free male inhabitant above the age of twenty-one years shall vote in any other County, except that in which he resides, and that no person shall be capable of being elected, unless he has been a resident within the said District at least one year.

Qualification of the representatives.

Elections to be continued for five days.

Duty of the sheriffs conducting them.

II. **THAT** full opportunity may be given to the good people of exercising their right of suffrage on an occasion so interesting to them, each of the Officers holding such Elections, shall continue the same from day to day, passing over *Sunday*, for five days including the first day, and shall cause this Act to be read on each day immediately preceding the opening of the Election, at the door of the Court-house, or other convenient place. Each of the said Officers shall deliver to each person duly elected a Representative, a certificate of his Election, and shall transmit a general return to the Clerk of the Supreme Court, to be by him laid before the Convention.

Penalty on them for

III. **FOR** every neglect of any of the duties hereby enjoined on such Offi-

cer, he shall forfeit one hundred pounds, to be recovered by action of debt, by any person suing for the same.

IV. THE said Convention shall be held at *Danville* on the twenty-sixth day of *July* next, and shall and may proceed, after choosing a President and other proper Officers, and settling the proper rules of proceeding, to consider and determine whether it be expedient for, and the will of the good people of the said District, that the same be erected into an Independent State, on the terms and conditions following:

V. *First*—THAT the Boundary between the proposed State and *Virginia*, shall remain the same as at present separates the District from the residue of this Commonwealth.

VI. *Second*—THAT the proposed State shall take upon itself a just proportion of the debt of the United States, and the payment of all the Certificates granted on account of the several expeditions carried on from the *Kentucky* District against the Indians, since the first day of *January*, one thousand seven hundred and eighty-five.

VII. *Third*—THAT all private rights and interests of Lands within the said District, derived from the Laws of *Virginia*, prior to such separation, shall remain valid and secure under the Laws of the proposed State, and shall be determined by the Laws now existing in this State.

VIII. *Fourth*—THAT the Lands within the proposed State of non-resident proprietors, shall not in any case be taxed higher than the Lands of residents, at any time prior to the admission of the proposed State to a vote by its Delegates in Congress, where such non-residents reside out of the United States; nor at any time either before or after such admission, where such non-residents reside within this Commonwealth, within which this stipulation shall be reciprocal; or where such non-residents reside within any other of the United States, which shall declare the same to be reciprocal within its limits; nor shall a neglect of cultivation or improvement of any Land within either the proposed State or this Commonwealth, belonging to non-residents, citizens of the other, subject such non-residents to forfeiture or other penalty within the term of six years, after the admission of the said State into the Federal Union.

IX. *Fifth*—THAT no grant of Land or Land Warrant to be issued by the proposed State, shall interfere with any Warrant heretofore issued from the Land-Office of *Virginia*, which shall be located on Land within said District now liable thereto, on or before the first day of *September*, one thousand seven hundred and ninety-one.

X. *Sixth*—THAT the unlocated Lands within the said District, which stand appropriated to individuals, or description of individuals, by the Laws of this Commonwealth, for military or other services, shall be exempt from the disposition of the proposed State, and shall remain subject to be disposed of by the Commonwealth of *Virginia*, according to such appropriation, until the first day of *May*, one thousand seven hundred and ninety-two, and no longer; thereafter the residue of all Lands remaining within the limits of the said District, shall be subject to the disposition of the proposed State.

XI. *Seventh*—THAT the use and navigation of the river *Ohio*, so far as the Territory of the proposed State, or the Territory which shall remain within the limits of this Commonwealth lies thereon, shall be free and common to the Citizens of the United States, and the respective Jurisdictions of this Commonwealth, and of the proposed State, on the river as aforesaid, shall be concurrent only with the States which may possess the opposite shores of the said river.

XII. *Eighth*—THAT in case any complaint or dispute shall at any time arise between the Commonwealth of *Virginia* and the said District, after it shall be an Independent State, concerning the meaning or execution of the foregoing articles, the same shall be determined by six Commissioners, of whom two shall be chosen by each of the parties, and the remainder by the Commissioners so first appointed.

XIII. *PROVIDED, however*, That five members assembled, shall be a sufficient number to adjourn from day to day, and to issue writs for supplying vacancies which may happen from deaths, resignations, or refusals to act; a majority of the whole shall be a sufficient number to choose a President, settle the proper rules of proceeding, authorise any number to summon a convention during a recess, and to act in all other instances where a greater number is not expressly required. Two thirds of the whole shall be a sufficient number to determine on the expediency of forming the said District into an Independent

neglect.

The convention to determine on the expediency of erecting the said district into an independent state, on certain conditions.

Boundary between the proposed state and this Commonwealth.

The proposed state to pay part of the debt of the United States and of this Commonwealth.

Rights to lands derived from this Commonwealth to be secured.

How lands of non resident proprietors are to be taxed,

when forfeited for neglect of cultivation.

Grants of land by this Commonwealth and the proposed state not to interfere.

Unlocated lands appropriated to individuals for military services to be disposed of by this Commonwealth.

Navigation of the Ohio to be free and common.

Commissioners to settle disputes which may arise respecting the foregoing articles.

What number of members necessary to proceed to business, and to determine the question concerning the erection of the said district into an independent state.

When the authority of this Commonwealth over the said district shall cease.

The assent of the general government to be obtained.

The convention to provide for the establishment of a constitution of government for the proposed state.

Privileges of the electors, and of the representatives.

The Executive to transmit this act to this Commonwealth's Representatives in Congress.

ent State, on the aforesaid terms and conditions, *Provided* that a majority of the whole number to be elected concur therein.

XIV. *AND be it further enacted*, That if the said Convention shall approve of the erection of the said District into an Independent State on the foregoing terms and conditions, they shall and may proceed to fix a day, posterior to the first day of *November*, one thousand seven hundred and ninety-one, on which the authority of this Commonwealth, and of its Laws under the exceptions aforesaid, shall cease and determine forever over the proposed State, and the said Articles become a solemn Compact mutually binding on the parties, and unalterable by either, without the consent of the other.

XV. *PROVIDED, however*, That prior to the first day of *November*, one thousand seven hundred and ninety-one, the General Government of the United States shall assent to the erection of the said District into an Independent State, shall release this Commonwealth from all its Federal obligations arising from the said District, as being part thereof, and shall agree that the proposed State shall immediately after the day to be fixed as aforesaid, posterior to the first day of *November*, one thousand seven hundred and ninety-one, or at some convenient time future thereto, be admitted into the Federal Union.

XVI. *AND*, to the end, that no period of anarchy may happen to the good people of the proposed State, it is to be understood that the said Convention shall have authority to take the necessary provisional measures for the election and meeting of a Convention, at some time prior to the day fixed for the determination of the authority of this Commonwealth, and of its Laws over said District, and posterior to the first day of *November*, one thousand seven hundred and ninety-one, aforesaid, with full power and authority to frame and establish a Fundamental Constitution of Government for the proposed State, and to declare what Laws shall be in force therein, until the same shall be abrogated or altered by the Legislative authority acting under the Constitution so to be framed and established.

XVII. *AND be it further enacted*, That the electors, in going to, continuing at, and returning from an election of Members to the said Convention, shall be entitled to the same privileges from arrest, as are by Law allowed at an election of Members to the General Assembly, and each person returned to serve as a Member in said Convention, shall be entitled to the same privileges from arrest in going to, during his attendance on, and returning from said Convention, as are by Law allowed to the Members of the General Assembly.

XVIII. THIS Act shall be transmitted by the Executive, to the Representatives of this Commonwealth in Congress, who are hereby instructed to use their endeavors to obtain from Congress a speedy Act to the effect above specified.

1790.

General Assembly, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 18th day of *October*, in the Year of our Lord, 1790.

CHAP. LIV.

An Act to regulate the inspection of Hemp.

[Passed the 24th of December, 1790.†]

Preamble.

Inspections of hemp to be established at certain places.
Warehouses to be provided.

I. **W**HEREAS it is represented to this present General Assembly, that great loss and inconvenience hath been sustained on account of the present mode established by Law for the Inspection of Hemp, particularly in permitting the Inspector to clean that, which may be refused by him: For remedy whereof, *Be it enacted*, That from and after the passing of this Act, Public Warehouses for the reception of Hemp, shall be kept at the places herein after mentioned, that is to say, at or near the City of *Richmond* and Towns of *Alexandria*, *Fredericksburg* *Manchester*, in that part of the Town of *Petersburg*, included in the county of *Dinwiddie*, and at the Great Falls in the county of *Loudoun*; and it shall and may be lawful for the Justices of the Courts of such Counties, wherein such Inspections are established; and they are hereby

† 1790, ch. 44.

required, upon the receipt of this Act, to provide good and sufficient Warehouses for the receipt of all Hemp which may be brought to the same; and the said Courts shall, and they are hereby required and empowered to agree with some person or persons, to erect or rent good and sufficient Warehouses for the reception and preservation of all Hemp which may be brought to the same, and shall certify the charges thereof to the Treasurer of this State, who is hereby directed to pay the same out of the aggregate fund.

II. *AND be it further enacted*, That the Courts of the Counties wherein any such Inspection for the receipt of Hemp shall be established by this act, are hereby required to appoint a fit and able person, not being concerned in mercantile or rope-making business, to have the care and charge of the said Warehouse, whose duty it shall be carefully to inspect and examine all Hemp which shall be brought to his Warehouse, separating that which shall be strong, dry, and sound, from that which may be unsound and unfit for exportation, and when so separated, shall be distinguished in the note by him given, in manner following, that is to say, all that which shall appear clean, dry, and well conditioned, shall be termed first quality; and that which may appear dry, strong and well conditioned, although not perfectly clean, shall be termed second or third rate, according to the cleanness of the same; but if it shall appear on the offering of any hemp for inspection, that it contains so great a quantity of trash or unsound, so as to render it unfit for manufacturing or exportation, the Inspector shall not give his note for the same, but the Owner shall be at liberty to dispose of it as he may think proper.

Inspectors, how to be appointed.

Their duty.

Quality of the hemp to be specified in the note.

III. *AND be it further enacted*, That the Inspector at any of the warehouses, by this act established, shall and may demand and receive for his services as Inspector, for every gross ton, the sum of fifteen shillings, and for every ton by him refused, the sum of ten shillings, and so in proportion for any lesser quantity, to be paid down to the Inspector on delivering the note, or by the person whose hemp may be refused, (as the case may be) one half of which sum shall be for the services of the Inspector, and the other one half so received, shall be paid to the Treasurer of this Commonwealth, or to the Owner of the warehouse, (as the case may be) quarter-yearly, under the penalty of forfeiting to the Commonwealth, or to the Owner of such warehouse, three hundred pounds, recoverable on motion before any Court of Record within this Commonwealth, giving ten days previous notice of such motion.

Allowance to the inspectors.

IV. *AND be it further enacted*, That all hemp, sound and merchantable, distinguished as above directed, shall by the Inspector be re-primed in bale boxes three feet two inches long in the clear, three feet deep, one foot eight inches at bottom, and two feet wide at the top, with a label annexed thereto, stamped with the quality and weight of each bale, and the Owner's name, which quality, weight, and Owner's name shall be entered in a book kept for that purpose, as well as the weight and Owner's name, of any hemp by him refused; and he is hereby required to give a certificate for all hemp by him passed in form following, viz.

Hemp to be reprimed in bale boxes.

I A. B. do certify, that C D. hath deposited tons or pounds of *Form of certificate for*
hemp, (as the case may be) of first, second or third rate. (as the case may be) hemp inspected and
passed inspection at the Warehouse of , of which I am Inspector. *passed.*
Witness my hand, this day of , in the year

V. *AND be it further enacted*, That the Inspectors appointed by this Act, previous to the execution of their office, shall take the following oath or affirmation, (as the case may be) viz.

Oaths of inspectors.

I A. B. do solemnly swear or affirm (as the case may be) diligently to examine and receive all hemp brought to the warehouse where I am Inspector, and that I will not pass any hemp that is not in my judgment dry, sound, well conditioned, and merchantable, nor pass or mark any bale of hemp contrary to the intent and meaning of the Act, intituled "An Act to regulate the inspection of hemp," nor refuse any hemp that is in my judgment dry, sound, well conditioned, and fit for exportation, nor fail to enter in a book, as directed by this Act, the weight of all hemp by me so passed or refused, nor alter or give out any hemp, other than that for which the receipt to be taken was given; but that I will in all things well and faithfully discharge my duty as an Inspector, according to the best of my skill and judgment, and agreeably to the intention of the said recited Act, without fear, favour, affection, malice or partiality. So help me GOD.

VI. *And be it further enacted*, That if any Court should fail or refuse in providing such houses, scales, screws, or other necessary conveniences at the places appointed by this Act, which they are hereby authorized and required to do out of the Aggregate Fund aforesaid, they shall forfeit and pay the sum of three hundred pounds, to be recovered with costs by action of debt or information a-

Penalty on county courts for not providing warehouses, &c.

gainst such Justices jointly, one moiety to the prosecutor, and the other moiety to the use of the Commonwealth: *And be it further enacted*, That the Act, intituled, "*An act concerning the inspection of hemp*," shall be, and the same is hereby repealed.

General Assembly, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 17th day of *October*, in the Year of our Lord, 1791.

CHAP. LV.

An Act concerning the Southern Boundary of this State.

[Passed the 7th of December, 1791.†]

Preamble.

Walker's line declared to be the Southern boundary of this State.

Claims to land between Walker's and Henderson's line, how to be settled.

I. **W**HEREAS official information hath been received by the General Assembly, that the Legislature of the State of *North-Carolina* have resolved to establish the line commonly called *Walker's line*, as the boundary between *North-Carolina* and this Commonwealth, and it is judged expedient to confirm and establish the said line on the part of this State: *Be it therefore enacted by the General Assembly*, That the line commonly called and known by the name of *Walker's line*, shall be, and the same is hereby declared to be the boundary line of this State.

II. *And be it further enacted*, That in all Courts of Law and Equity within this Commonwealth, the claims for lands lying between the line commonly called *Walker's line*, and the line commonly called *Henderson's line*, shall be decided in favour of the oldest title, whether derived from this Commonwealth, or from the State of *North-Carolina*.

CHAP. LVI.

An Act for regulating the Navigation of James River, above the Falls of the said River.

[Passed the 17th of December, 1791.†]

Number of every boat and owner's name, and residence, to be painted on it, and entered into the clerk's office.

Penalty for failure.

Commencement of this Act.

I. **B**E it enacted, That every person who shall be Proprietor of any Boat or other Vessel, which shall be employed in navigating the waters of *James River* and its branches above the Great Falls at *Richmond*, in the transportation of any produce or merchandize whatsoever, either raised or manufactured within this Commonwealth, or imported from any other place without the same, shall in the Clerk's Office of the County in which the said Proprietor or Proprietors shall then live, enter the number of each Boat or Vessel so to be employed, which number, together with the name of the County, and the name of the Owner or Owners of such Boat or Vessel, shall be written or painted on each side of the said Vessel, on some conspicuous part of the outside thereof, in large and plain letters, not less than four inches in length.

II. IF the Owner or Owners of any Boat or Vessel, which shall be employed in navigating the waters of the said River, above the Falls thereof as aforesaid, shall fail to enter in the Clerk's Office, as aforesaid, the name or names of the Owner or Owners, the name of the county in which he or they shall reside, and the number of each Boat or other Vessel, as aforesaid, or shall fail to write or paint the name or names of the Owner or Owners of the said Boat or other Vessel in manner above directed, so as to continue plain and legible as long as the said Boat or other Vessel shall be employed in navigation, he, she, or they shall forfeit and pay the sum of twenty shillings for every day he, she, or they shall neglect to comply with the purposes of this Act, to be recovered by any person who may sue for the same, by warrant from a Magistrate, allowing the said Owner or Owners one month after the first day of *April* next, to attend to the requisitions aforesaid.

III. THIS Act shall commence and be in force, after the first day of *April* next.

General Assembly, begun and held at the Capitol, in the City of Richmond, on Monday, the 1st Day of October, in the Year of our Lord, 1792.

CHAP. LVII.

An Act for reducing into one, the several Acts prescribing the Oath of Fidelity and Oaths of Public Officers.

[Passed the 22d of December, 1792.*]

I. **B**E it enacted by the General Assembly, That every person by law required to give assurance of fidelity, shall for that purpose take an oath in this form :

I, _____, do declare myself a Citizen of the Commonwealth of Virginia; I relinquish and renounce the character of Subject or Citizen of any Prince or other State whatsoever, and abjure all allegiance which may be claimed by such Prince or other State; and I do swear to be faithful and true to the said Commonwealth of Virginia, so long as I continue a Citizen thereof. So help me GOD.

Form of the oath of fidelity.

II. NO person shall have power to act in any Office, Legislative, Executive, or Judiciary, before he shall have given such assurance, and shall moreover have taken such of the following oaths, if another be not specially prescribed, as is adapted to his case.

No officer of government to act until he has taken it.

III. THE oath of a Governor :

Oath of a Governor.

I, _____, elected Governor of Virginia, by the Representatives thereof, do solemnly promise and swear, that I will, to the best of my skill and judgment, execute the said office diligently and faithfully according to Law, without favour, affection or partiality; that I will, to the utmost of my power, protect the Citizens of the Commonwealth in the secure enjoyment of all their Rights, Franchises, and Privileges, and will constantly endeavour that the Laws and Ordinances of the Commonwealth be duly observed, and that Law and Justice, in mercy, be executed in all judgments; and lastly that I will peaceably and quietly resign the Government to which I have been elected at the several periods to which my continuance in the said office is or shall be limited by Law and the Constitution. So help me GOD.

IV. THE oath of a Privy Councillor :

Of a Privy Councillor.

I, _____, elected one of the Privy Council of Virginia by the Representatives thereof, do solemnly promise and swear, that I will to the best of my skill and judgment, execute the said office diligently and faithfully according to Law, without favour, affection, or partiality, and that I will keep secret such proceedings and orders of the Privy Council as the Board shall direct to be concealed, unless the same be called for by either House of General Assembly. So help me GOD.

V. THE oath of one not specially directed to take any other :

Of one, not specially directed to take any other.

I, _____, do solemnly promise and swear, that I will faithfully, impartially and justly, perform the duty of my office of _____, according to the best of my skill and judgment. So help me GOD.

By whom to be administered.

VI. THE said oaths to be taken by a Member or Officer of either House of General Assembly, shall be administered by any Member of the Privy Council, and the taking thereof shall be certified to the Clerk of such House; and the said oaths to be taken by any other person, if it be not otherwise directed, shall be administered in some Court of Record, or by any Judge or Justice thereof, and the taking thereof shall be recorded in the said Court.

Oath of a Counsel or Attorney.

VII. EVERY Counsel or Attorney before he be permitted to practice in any Court within this Commonwealth, shall take the following oath before such Court :

I DO swear that I will honestly demean myself in the practice of a Counsel, Attorney or Proctor, and will execute my office to the best of my knowledge and ability.

VIII. ANY Person refusing to take an oath, and declaring religious scruples to be the true and only reason of such refusal, if he will use the solemnity and ceremony, and repeat the formulary observed on similar occasions, by those of the Church or religious Society he professeth himself to be a member of, or to join in communion with, shall thereupon be deemed as competent a witness, or to be as duly qualified to execute an Office, or perform any other act, to the sanction whereof an oath is, or shall be required by law, and shall be subject to the

How persons, refusing from religious scruples to take oaths, may be qualified.

same rules, derive the same advantages, or incur the same penalties or forfeitures, as if he had sworn. In presentments, indictments, inquisitions, verdicts, examinations, or other forms, the words "upon their oath," or "sworn," may be left out, and instead of them, "in solemn form," or "charged," which ever may be adapted to the case, may be inserted; but if the ancient form be adhered to, it shall not be adjudged error.

Repealing clause.

IX. ALL and every Act and Acts, clauses and parts of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

X. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LVIII.

*An Act for ascertaining the Salaries to the Officers of Civil Government.**

[Passed the 22d of November, 1792.†]

Salaries payable quarterly to the officers of civil government.

I. **BE** it enacted, That the several Officers herein after mentioned, shall receive for their salaries in quarterly payments, after the same shall have been audited, according to law: The Governor or Chief Magistrate, the sum of two thousand six hundred and sixty seven dollars. The Members of the Privy Council, the sum of six thousand six hundred and sixty-seven dollars, to be divided amongst them according to their attendance. The Judges of the Court of Appeals, the Judge of the High Court of Chancery, and the Judges of the General Court, each, the sum of one thousand dollars. The Attorney-General, the sum of six hundred and sixty-seven dollars, *per annum*; and to each of his Deputies in the District Courts, seventy-five dollars *per annum*. The Auditor of Public Accounts, the sum of one thousand dollars *per annum*. The Speaker of the Senate, the sum of three dollars and thirty-four cents *per day*, during each Session of Assembly, including his daily pay. The Speaker of the House of Delegates, the sum of six dollars and sixty-seven cents *per day*, in like manner. The Clerk of the General Court, for his ex-officio services, the sum of one hundred dollars *per annum*. The Register of the Land-Office and his Clerks, the sum of one thousand three hundred and thirty-three dollars *per annum*. The Treasurer, the sum of sixteen hundred and sixty-seven dollars *per annum*. The first Clerk of the Council, Treasury, and Auditor, the sum of five hundred dollars *per annum*, each, and each of the other Clerks of the Council, Treasury, and Auditor, the sum of three hundred and thirty-four dollars *per annum*. And the Keeper of the Public Jail, the sum of eighty-four dollars *per annum*. All those several sums shall be paid in Specie, and the Auditor is hereby authorised to audit the same, and issue his warrants upon the Treasury accordingly.

Repealing clause.

II. ALL and every Act and Acts, clauses and parts of Acts heretofore made, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed to affect any right which shall have accrued prior to the commencement of this Act.

Proviso.

Commencement of this Act.

III. THIS Act shall commence in force, from and after the first day of January next.

CHAP. LIX.

An Act to punish Bribery and Extortion.

[Passed the 19th of October, 1792.]

Penalties on any officer of government taking any thing for doing his office except what is allowed by law.

I. **BE** it enacted by the General Assembly, That no Treasurer, Keeper of any Public Seal, Councillor of State, Counsel for the Commonwealth, Judge, Clerk of the Peace, Sheriff, Coroner, Escheator, nor any other Officer of the Commonwealth, shall in time to come, take in any form, any manner of brokerage or reward for doing his office, other than is, or shall be allowed by law. And he that doth, shall pay unto the party grieved, the treble value of that he hath received, shall be amerced and imprisoned at the discretion of a Jury, and shall be discharged from his office for ever. And he who will sue in

* Amended in 1796, ch. 19. † Nov. 1781, ch. 33. 1785, ch. 16.

the said matter, shall have suit, as well for the Commonwealth as for himself, and the third part of the amercement.

II. ANY person hereafter to be elected to serve in the General Assembly, who shall directly or indirectly give or agree to give to any Elector or pretended Elector, money, meat, drink, or other reward, in order to be elected, or for having been elected for any County, City, or Borough, or for any District, shall be expelled, and be disabled from being elected a Member to either House of the General Assembly, during the term of three years. (a)

Members of General Assembly bribing electors to be expelled, and ineligible for three years.

III. ANY candidate or other person in his behalf, who shall directly or indirectly give or agree to give any Elector or pretended Elector, money, meat, drink, or other reward, in order to be elected, or for having been elected a Representative of this Commonwealth in Congress, shall forfeit and pay fifteen hundred dollars, for each offence, to be recovered with costs, by action of debt, to the use of any person who will sue for the same. (b)

Penalty for bribing electors of Representatives in Congress.

IV. ALL and every Act and Acts, clauses and part of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided*, That any act of bribery or extortion committed or done before the commencement of this Act, may be prosecuted in the same manner as if this Act had never been made.

Repealing clause. Proviso.

V. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. LX.

An Act against buying and selling of Offices.

[Passed the 19th of October, 1792.]

I. **B**E it declared and enacted by the General Assembly, That if any person or persons shall bargain or sell any office or offices, or deputation of any office or offices, or any part or parcel of any of them, or receive or take any money, fee or reward, or any other profit directly or indirectly, or take any promise, agreement, covenant, bond, or any assurance to receive or have any money, fee or reward, or other profit directly or indirectly, for any office or offices, or for the deputation of any office or offices, or any part of any of them, or for a vote in appointing to any office or offices, or the deputation of any office or offices, to the intent that any person should have, exercise, or enjoy any office or offices, or deputation of any office or offices, or any part or parcel of them, which shall in any wise touch or concern the administration of the Executive Government, or the administration or execution of justice, or the receipt or payment of the public Revenue, or which shall concern or touch any clerkship in a Court of Record, all and every person or persons so offending, shall be incapable of appointing or voting for the appointment to any such office, and shall be adjudged a disabled person in Law, to all intents and purposes, to have, occupy, or enjoy the office in virtue of which he holds, or shall hold the right of appointing or voting for the appointment to such office, and shall moreover be amerced and imprisoned at the discretion of a Jury; and if a Member of either House of Assembly, he shall moreover be expelled from the same, and forever after disabled from being elected a Member of the General Assembly.

Penalty for selling any public office, or for taking any thing for a vote in the appointing to any such office.

II. EVERY person who shall directly or indirectly give or pay any money, fee or reward, or shall make any promise, agreement, bond or assurance, to give any money, fee or reward whatsoever, for any vote or appointment to any office, which concerns the administration of the Executive Government, or the administration or execution of justice, or the receipt or payment of the Public Revenue, or for the clerkship in any Court of Record, or for the deputation or deputations to any of the said offices, shall be utterly incapable of serving in any such office.

For giving or agreeing to give any thing for any such office.

III. EVERY such bargain, sale, promise, bond, covenant, agreement and assurance, as before specified, shall be utterly void and of no effect.

Contracts for those purposes void.

IV. *PROVIDED always*, That nothing in this Act contained, shall be so construed as to prohibit the appointment, qualification, and acting of any Deputy Clerk, or Deputy Sheriff, who shall be employed to assist their principals in the execution of their respective offices.

Not to extend to appointments of deputy clerks or sheriffs.

(a) 1785, ch. 55, sec 10. (b) 1788, ch. 2, sec. 4. † Stat. 5 & 6, Edw. 6, ch. 16.

Official acts of persons convicted under this Act, performed before removal from office, valid.

V. *PROVIDED* always, That if any person or persons shall be convicted of having offended against this Act, yet all judgments given, and all other Acts executed or done by any such person or persons so offending, by authority or colour of the office or deputation which ought to be forfeited, or not occupied, or not enjoyed, by the person so convicted, after the offence so by such person committed or done, and before such person so offending for the same offence be removed from the exercise, administration, and occupation of the said office or deputation, shall be good and sufficient in Law to all intents, constructions, and purposes, in such like manner and form as the same should or ought to have remained and been, if this Act had never been made.

Repealing clause.

VI. ALL and every Statute and Statutes, Act and Acts, Clause or Clauses thereof, within the purview of this Act, (except as herein after provided) shall be, and are hereby repealed. *Provided* always, That nothing in this Act contained shall be construed to repeal the said Statutes or Acts, for so much of them as relates to any offence within the purview thereof, committed or done before the commencement of this Act.

Proviso.

Commencement of this act.

VII. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXI.

An Act for arranging the Counties in Districts for electing Senators.

[Passed the 12th of December, 1792.†]

Arrangement of the counties into senatorial districts.

I. **F**OR the regular election of Senators to the General Assembly, *Be it enacted*, That the Counties of *Accomack* and *Northampton*, shall be one District; the Counties of *Norfolk*, *Princess-Anne*, and *Nansemond*, one other District; the Counties of *Surry*, *Isle of Wight*, and *Prince-George*, one other District; the Counties of *Suffex*, *Dinwiddie*, and *Southampton*, one other District; the Counties of *Brunswick*, *Lunenburg*, *Mecklenburg*, and *Greensville*, one other District; the Counties of *Charlotte*, *Halifax*, and *Prince-Edward*, one other District; the Counties of *Amelia*, *Chesterfield*, *Cumberland*, *Nottoway*, and *Powhatan*, one other District; the Counties of *Buckingham*, *Amherst*, *Albemarle*, and *Fluvanna*, one other District; the Counties of *Franklin*, *Pittsylvania*, *Campbell*, *Bedford*, *Henry*, and *Patrick*, one other District; the Counties of *Wythe*, *Botetourt*, *Washington*, *Montgomery*, *Russell*, *Greenbrier*, and *Kanawha*, one other District; the Counties of *Elizabeth City*, *Warwick*, and *York*, one other District; the Counties of *Charles City*, *James City*, and *New-Kent*, one other District; the Counties of *Goochland*, *Henrico*, and *Louisa*, one other District; the Counties of *Hanover* and *Caroline*, one other District; the Counties of *Augusta*, *Rockingham*, *Rockbridge*, *Shenandoah*, *Pendleton*, and *Bath*, one other District; the Counties of *Essex*, *King-William*, and *King & Queen*, one other District; the Counties of *Gloucester*, *Middlesex*, and *Mathews*, one other District; the Counties of *Lancaster*, *Richmond*, and *Northumberland*, one other District; the Counties of *King-George*, *Westmoreland*, and *Stafford*, one other District; the Counties of *Spotsylvania*, *Orange*, and *Culpeper*, one other District; the Counties of *Fairfax* and *Prince-William*, one other District; the Counties of *Loudoun* and *Fauquier*, one other District; the Counties of *Frederick*, *Berkeley*, *Hampshire*, and *Hardy*, one other District; the Counties of *Monongalia*, *Harrison*, *Ohio*, and *Randolph*, one other District.

Repealing clause.

II. ALL Ordinances of Convention, or Acts of Assembly, within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

III. THIS Act shall commence in force, from and after the passing thereof.

CHAP. LXII.

An Act for reducing into one, the several Acts and parts of Acts respecting the Powers and Duties of the Executive.

[Passed the 16th of November, 1792.]

Powers vested in the Executive for suppressing combinations for dismembering the state.

I. **B**E it enacted, That if any combination for dismembering this State, or establishing in any part of it a separate Government, should become so powerful as to obstruct the due execution of the Laws of this Commonwealth, in the ordinary course of proceeding within any County or Counties thereof, it

† May 1776, ch. 6, sec. 1 & 2.

shall be lawful for the Governor, with advice of Council, to call out the Militia of the State to suppress such Combination, and to employ them in the same manner as he may do by Law, in cases of Invasion or Insurrection.

II. IT shall and may be lawful for the Governor, with the advice of the Council of State, to apprehend and secure, or cause to be apprehended, and secured, or compelled to depart this Commonwealth, all suspicious persons, being the subjects of any foreign Power or State, who shall have made a declaration of war, or actually commenced hostilities against the said States, or from whom the President of the United States shall apprehend hostile designs against the said States; provided information thereof shall have been previously received by the Executive from him. And in all such cases, the Governor, with the advice of the Council of State, shall, and he is hereby empowered, to send for the person and papers of any Foreigner within this State, in order to obtain such information as he may judge necessary. (a)

III. ALL Sheriffs and Jailors shall receive such suspicious persons, whom by Warrant from the Governor they shall be commanded to receive, and them in their prisons or custody to detain, or transport out of the Commonwealth, as by such Warrant they may be commanded. And all others, the good Citizens of this Commonwealth, shall be aiding and assisting in apprehending, securing, or transporting any such suspicious person, when commanded by Warrant or Proclamation of the Governor, or required by the Sheriff or jailor to whose custody such suspicious persons may have been committed. Every person acting under the authority aforesaid, shall be indemnified from all suits to be commenced or prosecuted for any action or thing done by virtue thereof, and may plead the general issue and give this Act in evidence. Saving always to the Merchants of any Foreign State, betwixt whom and the United States of America, war shall have arisen, and to their Families, Agents, and Servants, found in this Commonwealth at the beginning of the war, the privileges allowed by Law. (a)

IV. IF the Governor and President of the Privy Council shall die, or otherwise become unable to perform his duty, in the recess of the General Assembly, the Privy Councillor, whose name stands next in the list of their appointments, shall officiate as Lieutenant-Governor, until the vacancy be supplied, or the disability cease. (b)

V. AND in the absence of the Governor, such intended absence having been previously notified to them by him, and entered on their Journals, or in the like absence of the President, and upon the like notification, if any business to be transacted at the Council Board necessarily require dispatch before he can attend it, the Council may proceed without him; and in either case the Act shall be as valid as if he had been present. (b) The Governor and Council shall have power to appoint from time to time, as they shall be wanting, a drawing Clerk, a copying Clerk, and a Clerk of foreign correspondence, who shall each of them take an oath, to be administered by any Member of the Board, to keep secret all such matters as they shall direct them to keep secret; which Clerks shall be removed at their will. (c)

VI. IT shall and may be lawful for the Governor, with the advice of Council, to cause as many men (not exceeding twenty-five) with proper Officers to be enlisted as guards for public service, as he the said Governor, with advice of Council, may deem necessary, and may retain the same in service so long as the public exigencies may require. (d)

VII. IF it shall happen that there is not a sufficient number of Justices for holding a Court in any County, either by deaths, refusal to act, or removal out of the County, the Governor for the time being, with advice of Council, shall have full power to issue a Commission or Commissions of the Peace for the appointment of any number of Magistrates in such County, so circumstanced, as shall be judged necessary for carrying on the business of the same. (e)

VIII. IT shall be the duty of the Executive to send copies of the Laws of this Commonwealth by express, or otherwise, as they shall think best, to the Clerk of every County and Corporation Court within the same, for the use of each Magistrate, Clerk, States Attorney, and Sheriff, in the County or Corporation, as soon as the said Laws are printed; the expense whereof shall be defrayed out of the Contingent Fund.

For apprehending suspicious subjects of a foreign state, in case of war with such state.

Their persons and papers may be sent for and secured.

Sheriffs and Jailors to obey the warrants of the Governor respecting them.

Saving to foreign merchants their legal privileges.

Who shall officiate as Lieutenant Governor in case of the inability of the Governor and President of the Council.

When the Council may act without the Governor or President.

Clerks of the Council, how to be appointed,

qualified, and removed.

Guards for public service how to be procured.

When the Executive may appoint justices of the peace without a recommendation.

The Executive to send the laws to the clerks of the County Courts.

(a) 1785, ch. 15. (b) 1785, ch. 56. (c) 1785, ch. 58. (d) May 1783, ch. 30.

(e) Oct. 1778, ch. 5, sec. 3.

Fines assessed by a jury
not to be remitted by
the Executive.

Commencement of this
act.

IX. IT shall not hereafter be lawful for the Executive to remit any fine or
amercement assessed by a Jury.*

X. ALL and every Act and Acts, clause and clauses of Acts, within the
purview of this Act, shall be, and are hereby repealed.

XI. THIS Act shall commence and be in force, from and after the passing
thereof.

CHAP. LXIII.

*An Act for reducing into one Act, the several Acts concerning the Court of Ap-
peals, and special Court of Appeals.*

[Passed the 26th of October, 1792.]

Court of Appeals to
consist of five judges.

Any three to constitute
a court.
Where to be holden.

Term.

Oaths to be taken by
the judges.

Jurisdiction of the court.

Regulations respecting
the adjournment of the
court when the judges
do not attend.

I. **B**E it enacted by the General Assembly, That the Court of Appeals shall
consist of five Judges, to be chosen and commissioned in the manner
directed by the Constitution of this Commonwealth. Any three of the said
Judges shall constitute a Court. The said Court shall be holden at the Capitol,
in the City of *Richmond*, or at such other place as shall be appointed by the Ge-
neral Assembly, or in their recess, by the Governor, with the advice of the
Council of State, on any such emergency, as will make the adjournment law-
ful. (a) The said Court shall be holden twice in every year, namely, on the tenth
day of *April*, and the tenth day of *October*, or when that shall happen to be *Sun-
day*, on the succeeding day, and shall sit each time, until the business depend-
ing before them shall be dispatched. (b) Every Judge before he exercises his office,
shall in open Court give assurance of fidelity to the Commonwealth, and take
this oath:—

YOU shall swear that you will well and truly serve this Commonwealth in the office
of a Judge of the Court of Appeals, and that you will do equal right to all manner
of people, great and small, high and low, rich and poor, without respect of persons.
You shall not take by yourself, or by any other, any gift, fee or reward of gold, silver,
or any other thing directly or indirectly, of any person or persons, great or small, for
any matter done or to be done, by virtue of your office, except such fees or salary as
shall be by Law appointed. You shall not maintain by yourself or by any other, pri-
vily or openly, any plea or quarrel depending in the Courts of this Commonwealth.
You shall not delay any person of right for the letters or request of any person, nor for
any other cause; and if any letter or request come to you contrary to the Law you
shall nothing do for such letter or request, but you shall proceed to do the Law, any
such letter or request notwithstanding. And finally, in all things belonging to your
said office, during your continuance therein, you shall faithfully, justly and truly ac-
cording to the best of your skill and judgment, do equal and impartial justice, with-
out fraud, favor or affection. So help you GOD. (c)

II. THE said Court shall have jurisdiction not only in the cases provided for
by the Constitution of this Commonwealth, and in suits originating there, or
adjourned thither for trial by virtue of any statute, which trial shall be by Juries
according to the course of Law, but also in such as are now pending therein,
or shall be brought before them by appeals, writs of error, or *superfedeas*, to re-
verse Decrees of the High Court of Chancery, or judgments of the General
Court, or District Courts of this Commonwealth, after those decisions shall be
final there, if the matter in controversy be equal in value, exclusive of costs, to
one hundred dollars, if the judgment sought to be reversed, shall be rendered in
the District Courts, or one hundred and fifty dollars, if in the General Court or
High Court of Chancery, or be a freehold or franchise; and in all other cases
therein depending at the commencement of this Act. (d)

III. IF a sufficient number of Judges to constitute a Court shall not attend
on the first day of any Term of the Court of Appeals, it shall be lawful for any
one Judge thereof to adjourn the Court from day to day, for four days succes-
sively, or until a sufficient number shall attend, and if that shall not happen be-
fore four of the clock on the fourth day; then the Court shall stand adjourned,
and all suits depending therein continued to the next Court. And if during
any session after a Court shall have been constituted, three Judges shall not at-
tend to make a Court, there shall be no discontinuance of the Term, but the
Court shall stand adjourned from day to day, till a sufficient number shall attend;

* By act of Dec. session, 1800, ch. 59, Executive prohibited from remitting any
fines except in cases where they are expressly empowered by law to do so.

(a) 1788, ch. 68. (b) 1791, ch. 12. (c) May 1779, ch. 22. (d) 1788,
ch. 67, sec. 16. 1790, ch. 9, sec. 2.

provided that shall happen in four days: and if it does not, then the Term and suits shall stand adjourned to the next Court, as before directed. (a)

IV. ALTHOUGH one or more of the Judges of the Court of Appeals be interested in the event of any suit, matter or thing depending therein, the same shall be finally decided by the other Judges, if there be a number of Judges not so interested sufficient to constitute a Court. (b)

V. IF, on an appeal from the High Court of Chancery, or on any question concerning any decree or order made therein, or process to be directed thereto, a majority of, or all the Judges of the Court of Appeals be interested, then in the former case the remaining Judges of the Court of Appeals not so interested, and as many of the Judges of the General Court, as will make the number at least five, and in the latter case so many of the Judges of the General Court not so interested, as will make the number five at least, shall constitute a Special Court for the trial of such appeal or question. If on an appeal, writ of *error*, or *superfedeas*, to or from any judgment or order made in the General Court, or any question concerning the same, or any process to be directed thereto, a majority, or all of the Judges of the Court of Appeals be interested therein, then in the former case the remaining Judges of the Court of Appeals, not being so interested, together with the Judge of the High Court of Chancery, and as many of the Judges of the General Court, not being so interested, as will make the number five at least, shall constitute a like Court for the purpose aforesaid. If on an appeal, writ of *error*, or *superfedeas*, to or from any judgment or order made in a District Court, or any question concerning the same, or concerning any process to be directed thereto, a majority, or all the Judges of the Court of Appeals be interested, then in the former case, the remaining Judges of the Court of Appeals not being interested, the Judge of the High Court of Chancery not being so interested, and as many of the Judges of the General Court, who are not so interested, and did not render the judgment, or direct the order, as will make the number five at least, shall constitute a like Court for the purpose aforesaid; and in the latter case, no Judge of the Court of Appeals shall sit; but any five of the Judges last mentioned, and not disqualified as aforesaid, shall constitute a Court; *Provided always*, that in case of the sickness or other disability of the Judge of the High Court of Chancery to attend any Special Court of Appeals, such Court may, in any case, be constituted by other Judges. (c) *And provided also*, that when any Special Court shall be appointed for the trial of any cause depending in the Court of Appeals, because a majority of the Judges of that Court are interested or otherwise disqualified to sit therein, in case of the sickness or disability of the remaining Judge or Judges of the said Court not so disqualified, or either of them, the remaining Judges appointed by law to hold such Court, or any five of them attending may proceed to a hearing and decision of the cause, in the same manner as if all the Judges of the Court of Appeals, not so disqualified, had been present.

VI. WHENSOEVER a majority, or all the Judges of the Court of Appeals shall be interested in any of the cases above-mentioned, the same shall be entered of Record in the said Court, and the Clerk thereof shall thereupon issue a summons to the Judge of the High Court of Chancery, and Judges of the General Court, requiring them, if not disqualified as aforesaid, to attend at the Capitol, in the City of Richmond, or in case of adjournment of the Court of Appeals to any other place, at such other place on the 20th day of *June* or *November*, then next following, and stating the names of the parties, and the Court whose decision is to be examined. A Court constituted in any of the cases above described, shall hear, determine, and finally decide all suits, process, matters and things submitted to their cognizance and jurisdiction aforesaid. (d)

VII. THE Clerk of the Court of Appeals for the time being, shall attend all such Special Courts with the Records in the cases to such Special Courts committed, and enter the proceedings of all such Special Courts in the order Book of the Court of Appeals, and the same shall be signed by the presiding Judge of such Special Court, and be certified to the Inferior Court; and the judgment or decree, sentence or order of such Court, shall be carried into execution in the same manner as if the same had been determined in the Court of Appeals. Such Special Courts shall be attended by the like Officers with the Court of Appeals, who shall receive the like compensation as they now do in the said Court; and

The court to determine causes in which one or more of the judges may be interested if there remains a sufficient number to make a court.

Special Courts of Appeals to be held for the trial of suits in which a majority of the judges of the Court of Appeals are interested.

When and where.

To be attended by the clerk, and other officers of the Court of Appeals, and to have the same power of adjournment, &c.

(a) 1790, ch. 9, sec. 2. (b) 1789, ch. 18. (c) 1791, ch. 11, sec. 4. (d) 1789, ch. 18, sec. 9. Amended in 1796, ch. 17. 1791, ch. 11.

Causes in the Special Courts when to be resumed by the Court of Appeals.

Oaths to be administered to the judges attending such Special Courts.

Allowances to them for attendance and travelling expenses.

Court of Appeals to appoint their officers; to be attended by the sheriff of the county in which the court is holden. Judges may appoint a clerk in vacation.

Duty of the clerk. Rule in docketing causes.

Jurisdiction of the court with respect to appeals, writs of error, *superfedeas*, &c.

Writs of *superfedeas* may be granted in vacation.

By whom bond and security may be given in appeals, &c.

When records in appeals &c. are to be filed.

After dismissal of ap-

such Special Courts may adjourn and do all and every act as a Court during their Session, which the Court of Appeals may by Law do. (a)

VIII. *PROVIDED always*, That where any cause shall be pending in any such Special Court, and the same shall not be determined before there shall be a sufficient number of the Judges of the Court of Appeals qualified to make a Court for deciding the same, such cause shall be resumed by the Court of Appeals, and be determined there, as if such cause had never been committed to a Special Court.

IX. EACH Judge attending in consequence of such summons, shall in open Court take an oath to do his duty as a Judge of Appeals, in the case or cases on which he is summoned, impartially and truly, without favour or affection; which oath shall be administered by the eldest sitting Judge, and shall then be administered to him, if he shall not before have qualified as a Judge of the Court of Appeals by one other of the Judges. (b)

X. EACH Judge attending in consequence of such summons, and not disqualified as aforesaid, shall be allowed for his attendance three dollars and thirty-three cents *per day*, and for travelling to and from the place of Session, two dollars for every twenty miles: And the Judges of the Court of Appeals, attending such Special Court, and not disqualified to sit therein, shall be paid the same allowance. (c)

XI. THE Court of Appeals shall appoint a Clerk, Tipstaff, and Cryer, the first removable for misbehaviour, in the manner directed by the Constitution, the two others at pleasure; and shall be attended by the Sheriff of the County, in which they sit, as their Officer. (d)

XII. IF a vacancy shall happen in the office of Clerk out of the terms of the said Court, it shall be lawful for a majority of the Judges, by commission under their hands and seals, to appoint a Clerk to fill such vacancy. (e)

XIII. THE Clerk of the said Court shall carefully preserve the transcripts of Records certified to his Court with the Bonds for prosecution, and all papers relative to them, and other suits depending therein, docketing them in the order he shall receive them, that they may be heard in the same course, unless the Court for good cause to them shewn, direct any to be heard out of its turn, and shall faithfully record their proceedings and decisions, and certify the same to the proper Courts. (f)

XIV. APPEALS, writs of *error*, and *superfedeas*, may be granted, heard and determined by the Court of Appeals, to and from any final decree or judgment of the High Court of Chancery, General Court and District Courts, in the same manner, and on the same principles, as appeals, writs of *error* and *superfedeas*, are to be granted, heard and determined by the High Court of Chancery, and District Courts, to and from any final decree or judgment of a County, City, or Borough Court, and the party shall proceed in like manner, and the damages in case of affirmance shall be the same in the Court of Appeals, as in those Courts respectively; and the Clerk of the said Court shall issue the like process for summoning the adverse party, removing the Records, suspending the execution, and for every other requisite purpose, making those alterations in the form, which are necessary to adapt it to the case, as are prescribed in the like cases in the High Court of Chancery, and the District Courts, respectively. (g)

XV. WRITS of *superfedeas* may be granted by any Judge of the Court of Appeals during vacation, the party desiring to obtain the same, proceeding in like manner as in the case of a *superfedeas* to be granted by a Judge of the District Courts, to a judgment of the County Court. (h)

XVI. WHERE one person or several obtain an appeal, writ of *error*, or *superfedeas*, bond and security given by any party, or by any responsible person, shall be valid and sufficient. (i)

XVII. WHENSOEVER any appeal, writ of *error*, or *superfedeas*, shall be granted, and a transcript of the Record be not sent to the Court on or before the second term of the Court of Appeals, after the same shall have been granted, such appeal, writ of *error*, or *superfedeas*, shall be dismissed, unless good cause be shewn to the contrary. (k)

XVIII. AFTER the dismissal of an appeal, writ of *error*, or *superfedeas*,

(a) 1791, ch. 11. (b) 1790, ch. 7, sec. 3. (c) 1789, ch. 18. 1791, ch. 11, sec. 3. (d) May 1779, ch. 22. (e) 1788, ch. 68, sec. 8. (f) May 1779, ch. 22. (g) 1788, ch. 68, sec. 12. May 1779, ch. 22. (h) 1789, ch. 13, sec. 18. (i) 1788, ch. 67, sec. 92. *ib.* ch. 68, sec. 10. (k) 1789, ch. 18, sec. 12.

in the Court of Appeals, no appeal, writ of *error*, nor *supersedeas* shall be allowed. (a)

XIX. A CLEAR and concise state of the case of each party in an appeal, writ of *error*, or *supersedeas*, with the points intended to be insisted on, signed by his counsel and printed, the expense whereof shall be taxed in the bill of costs, shall be delivered to every Judge time enough before the hearing, for his consideration; but the Court, if this be neglected, may nevertheless hear and determine the matter, and may give such decree or judgment, if it be not affirmed or reversed in the whole, as the Court whose error is sought to be corrected ought to have given, (affirming on those cases where the voices on both sides shall be equal, with an allowance of the costs of appeal to the party prevailing) to be certified to the Court from which the matter was removed, who shall enter it as their own, and award execution thereupon accordingly. (b)

XX. IT shall not be lawful for the High Court of Chancery, or General Court, to remove before the Court of Appeals, by adjournment, any question, matter or thing, whatsoever. (c)

XXI. THE Judges of the Court of Appeals shall direct the form of writs from time to time in such manner as shall seem advisable. (d)

XXII. ALL Acts and parts of Acts, within the purview of this Act, shall be, and are hereby repealed.

XXIII. THIS Act shall commence and be in force, from and after the passing thereof.

peals, &c. none others to be allowed.

Cases to be stated and printed for the Judges.

Judgments of the court how to be rendered.

No question to be removed by adjournment to the Court of Appeals.

The judges to direct the forms of writs.

Former acts repealed.

Commencement of this act.

CHAP. LXIV.

An Act reducing into one, the several Acts concerning the High Court of Chancery.†

[Passed the 29th of November, 1792.]

I. **B**E it enacted by the General Assembly, That the High Court of Chancery shall consist of one Judge, to be chosen and commissioned in the manner directed by the Constitution of this Commonwealth.

II. THE said Court shall be holden at the Capitol in the City of *Richmond*, or at such other place as shall be appointed by the General Assembly, or in their recess by the Governor, with the advice of the Council of State, on any such emergency, as will make the adjournment lawful. (e)

III. THE said Court shall be holden three times in every year, namely, on the first day of *March*, on the twelfth day of *May*, and on the tenth day of *September*; but if either of those days happen on a *Sunday*, on the day following. The Session in *March* shall continue eighteen, and the Sessions in *May* and *September* twenty-four juridical days successively, unless the business depending before the said Court shall be sooner dispatched. (f)

IV. IF the Judge shall not attend on the first day of the Term, such Court shall stand adjourned from day to day until a Court be made, if that shall happen before four o'clock in the afternoon of the sixth day. (g)

V. IF a Court shall not sit in any Term, or shall not continue to sit the whole Term, or before the end of the Term shall not have heard and determined all matters ready for its decision, all suits, matters and things depending in Court and undecided, shall stand continued to the next succeeding Term. If from any cause the Court shall not sit on any day of the Term after it shall have been opened, there shall be no discontinuance; but so soon as the cause is removed, the Court shall proceed to business until the end of the Term, if the business depending before it be not sooner dispatched.

VI. EVERY person so commissioned before he enters upon the duties of his office, shall take and subscribe the oath of fidelity to this Commonwealth, and take the following oath: (h)

YOU shall swear that well and truly you will serve this Commonwealth in the office of Judge of the High Court of Chancery, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to equity and good conscience, and the Laws and usages of Virginia, without respect of persons.

(a) 1789, ch. 18, sec. 12. (b) May 1779, ch. 22. (c) 1789, ch. 18, sec. 1. (d) 1788, ch. 67, sec. 22.

† By act of Dec. session, 1801, pa. 12, ch. 14, three superior Courts of Chancery are established.

(e) 1788, ch. 69. (f) 1790, ch. 12. 1791, ch. 12. (g) 1788, ch. 69. (h) Oct. 1777, ch. 15, sec. 1.

High Court of Chancery to consist of one judge; how chosen and commissioned. Where to be held.

Terms.

The court to be adjourned from day to day for six days when the judge does not attend.

Causes to be continued to the next term when the court does not sit, or does not finish the business.

Oaths to be taken by the judge.

You shall not take by yourself, or by any other, any gift, fee, or reward, of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done by virtue of your office, except such fees or salary as shall be by Law appointed. You shall not maintain by yourself, or by any other, privately or openly, any plea or quarrel depending in the Courts of this Commonwealth. You shall not delay any person of right for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary to Law, you shall nothing do for such letter or request, but you shall proceed to do the Law, any such letter or request notwithstanding; and finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial justice, without fraud, favor, affection or partiality. So help you GOD.

Such oath shall be taken before the Executive, and a certificate recorded in the said Court.

Penalty for acting without taking the oaths.

VII. IF any person shall presume to execute the said office, without having taken the said oaths, he shall forfeit and pay the sum of fifteen hundred dollars for his said offence. (a)

Jurisdiction of the court.

VIII. THE said Court shall have general jurisdiction over all persons, and in all causes in Chancery, now pending therein, or which may hereafter be brought before it, whether by original process, appeal from any Inferior Court, certiorari, or other legal means, and also in such other cases, as by any statute, are, or shall be made cognizable therein: But no person shall commence an original suit in any matter of less value than thirty-three dollars and thirty-three cents, except it be against the Justices of any County or other Inferior Court, on pain of having the same dismissed with costs. (a)

In what cases to be considered as always open.

IX. THE said Court shall be considered as always open, so as to grant injunctions, writs of *ne exeat*, certiorari, and other process heretofore usually granted in vacation. (a)

Officers to be appointed.

X. THE said Court shall have power to appoint a Clerk, who shall hold his office during good behaviour, and be entitled to such fees or salary as the Legislature may appoint, as also a Serjeant at Arms: (a) And in case of a vacancy in the recess of the said Court, the said Judge may make the like appointments under his hand and seal, during a vacation; and such succeeding Clerk or Serjeant, having, in any Court of Record, taken the oaths required by Law, shall exercise the same power, perform the same duties, and be entitled to the same fees and profits, as if he had been appointed in Term time. (b)

The court may require the opinion of the General Court in matters of law

XI. IT shall be lawful for the High Court of Chancery to send any matter of Law to the General Court, for their opinion, to be certified thereupon. (c)

May proceed against other absent defendants as against absent debtors.

XII. ALTHOUGH any of the Defendants, whether debtors or others, in any suit instituted in the said Court, should be absent from the Commonwealth, the Court may nevertheless proceed to a hearing and decree therein, as in the case of absent debtors having effects within the Commonwealth. (d)

May direct issues to be tried.
Mode of trial in all other cases.

XIII. THE said Court in its discretion, may direct an issue to be tried, whenever it shall be judged necessary, either in that Court, or in any other Court whatsoever, as justice or convenience to the parties may require, and in all other cases the mode of trial shall be the same as hath been heretofore used and practised in the Courts of Chancery in Virginia. (e)

Suits properly cognizable in the General Court may be tried in the Court of Chancery, when a majority of the judges of the former are interested.

XIV. IF a majority of the Judges of the General Court be interested in any suit, which in the case of any other person would have been proper for the Jurisdiction of such Court, it may be lawful to institute such suit in the High Court of Chancery, where proceedings shall be had conformably to the rules of the General Court, and process shall be returnable as the High Court of Chancery shall direct; and thereafter an appeal may be entered to the Court of Appeals. (f)

When appeals may be made from decrees in county courts where not entered when the decrees were pronounced.

XV. IT shall be lawful for the said Court to arrange the business thereof, in the most convenient and equitable manner. (g)

XVI. ANY party thinking himself aggrieved by a decree of the Court of a County, City, or Borough, in Chancery, and not having entered an appeal from the decree at the time it was pronounced, may appeal from such decree at any time within one month after the decree pronounced, lodging for that purpose with the Clerk of the High Court of Chancery, a copy of the proceedings in the suit, and a petition suggesting error in the decree, signed by some Counsel attending the High Court of Chancery, and also lodging with the petition

(a) Oct. 1777, ch. 15, sec. 2. (b) May 1778, ch. 7. (c) 1788, ch. 69, sec. 8. (d) 1787, ch. 9, sec. 3. (e) Oct. 1783, ch. 26, sec. 3. (f) 1788, ch. 67, sec. 13. 1788, ch. 69, sec. 4.

a bond executed by the appellant or his agent, and a surety or sureties, with the like condition as is annexed to other appeal bonds, and affidavits, or solemn affirmations, verifying the sufficiency of the sureties; and the Clerk shall thereupon issue a summons against the appellee, requiring him to appear and answer the said petition and appeal, and shall also issue a *superfedeas*, if necessary, to enjoin from proceeding in execution of the decree; and the Court shall and may hear and determine the appeal in the same manner as if the appeal had been entered at the time the decree was pronounced. (a)

XVII. *PROVIDED always*, That whenever an appeal is prayed for from any Inferior court to the said High Court of Chancery, or bond is given for the removal of any suit in Chancery, in any manner whatsoever, it shall be sufficient in either case, if the said bond or bonds shall be executed by good and sufficient securities, although the appellant or party shall not execute the said bond or bonds. (b)

XVIII. THE said Court, or the Judge thereof in vacation, shall have power, for good cause shewn, to allow a petition of appeal, and if necessary, order a *superfedeas* to stop the execution of any decree pronounced by an Inferior Court, at any time within three years after pronouncing the same; the party praying such appeal and *superfedeas*, complying with the terms which the said Court or Judge shall annex to such order. (c)

XIX. ALL original process to bring any person to answer any bill, petition or information in the said Court, and all subsequent process thereupon, shall be issued and signed by the Clerk in the name of the Commonwealth, and bear teste by the Judge of the said Court; shall be returnable to the first or seventeenth days of the term, which shall be next after the suing out such process, and may be executed at any time before the return day thereof. And if any process shall be executed so late that the Sheriff hath not reasonable time to return the same before the day of appearance, and thereupon any subsequent process shall be awarded, the Sheriff shall not execute such subsequent process, but shall return the first process by him executed, on which there shall be the same proceedings as if it had been returned in due time. (d)

XX. ALL appeals from decrees in Chancery, obtained in any Inferior Court, shall be made to the third day of the next term.

XXI. IN all suits in the said Court, the following rules and methods shall be observed: The complainant shall file his bill within one calendar month after the day of appearance, or may be ruled on the requisition of the defendant to file such bill, and if he fails to do so within one calendar month after such rule, the suit may be dismissed with costs; and if he shall fail to file the same within three months after the *subpoena* shall be returned executed, the suit shall stand *ipso facto* dismissed with costs. (e)

XXII. AND upon the complainant's dismissing his bill, or the defendant's dismissing the same for want of prosecution, the complainant shall pay costs, to be taxed by the Clerk of the Court; for which costs, an attachment, or other process of contempt, or an execution may issue, at the election of the defendant, returnable on any return day. (f)

XXIII. THE complainant may amend his bill before the defendant or his attorney hath taken out a copy thereof, or in a small matter afterwards, without paying costs; but if he amend in a material point after such copy obtained, he shall pay the defendant all costs occasioned thereby. (g)

XXIV. IF the defendant shall not appear on the day of appearance, (which in all cases shall be the second day after the Term to which the *subpoena* is returnable) an attachment shall be awarded and issued against him, returnable to the next Term, which being returned executed, if the defendant doth not appear, or being brought into Court upon any such process, shall obstinately refuse to answer, the complainant's bill shall be taken as confessed, and the matter thereof decreed accordingly. (h)

XXV. THE defendant within three calendar months after his appearance and bill filed, shall put in his answer to be filed with the Clerk in the office, at the expiration of which time, if no answer be filed, the Clerk, upon request, shall issue an attachment, returnable to the next Court; and if no answer be filed upon the return of such attachment executed, or a copy thereof left at the defendant's usual place of abode, or last place of residence, the complainant's bill

By whom bond and security may be given in appeals, &c.

How appeals may be obtained from decrees in county courts where not entered when the decrees were pronounced.

Process how to be issued.

Return days.

Appeals to be made to the third day of the next term.

Rules to be observed in the pleadings.

(a) May 1773, ch. 7, sec. 3. (b) 1787, ch. 9, sec. 2. (c) *ibid.* (d) O.A. 1777, ch. 15, sec. 2. (e) O.A. 1777, ch. 15, sec. 3. 1787, ch. 9. (f) O.A. 1777, ch. 15, sec. 4. 5. 6.

shall be taken as confessed, and the matter thereof decreed; and if the attachment be returned not executed, an attachment with proclamation and such subsequent process of contempt may issue as was heretofore issuable out of the General Court sitting in Chancery in like cases. *a*

XXVI. NO process of contempt shall issue unless the *subpoena* be returned served by a sworn officer, or affidavit be made of the service thereof. *b*

XXVII. EVERY defendant may swear to his answer before any Judge of this or of the General Court, or any Justice of the Peace. *b*

XXVIII. IF the defendant does not file his answer within three months after the plaintiff shall have filed his bill, having also been served with the *subpoena* at least three months before the said time for filing his answer, the plaintiff may have a general commission to take depositions, or he may move the Court to bring in the defendant to answer interrogatories, at his election, and proceed on to hearing in the two last cases, as if the answer had been filed, and the cause was at issue: *Provided*, That the Court for good cause shewn, may allow the answer to be filed, and grant a further day for such hearing. *c*

XXIX. AFTER answer filed, and no plea in abatement to the jurisdiction of the Court, no exception for want of jurisdiction shall ever afterwards be made, nor shall the High Court of Chancery, or any other Court, ever thereafter delay or refuse justice, or reverse the proceedings for want of jurisdiction, except in cases of controversy respecting lands lying without the jurisdiction of such Court, and also of infants and *femes covert*. *d*

XXX. WHEN a cross bill shall be exhibited, the defendant or defendants to the first bill shall answer thereto, before the defendant or defendants to the cross bill shall be compelled to answer such cross bill. *e*

XXXI. THE complainant shall reply, or file exceptions within two calendar months after the answer shall have been put in. If he fails so to do, the defendant may give a rule to reply with the Clerk of the Court, which being expired, and no replications or exceptions filed, the suit shall be dismissed with costs; but the Court may order the same to be retained if they see cause, on payment of costs. *e*

XXXII. IF the complainant's Attorney shall except against any answer as insufficient, he may file his exceptions, and give a rule with the Clerk to make a better answer within two calendar months, and if within that time the defendant shall put in a sufficient answer, the same shall be received without costs; but if any defendant insists on the sufficiency of his answer, or neglects or refuses to put in a sufficient answer, or shall put in another insufficient answer, the plaintiff may set down his exceptions to be argued the next term in Court, and after the expiration of such rule, or any second insufficient answer put in, no farther or other answer shall be received but upon payment of costs. *f*

XXXIII. IF upon argument the complainant's exceptions shall be overruled, or the defendant's answer adjudged insufficient, the complainant shall pay to the defendant, or the defendant to the complainant, such costs as shall be allowed by the Court. *f*

XXXIV. UPON a second answer adjudged insufficient, costs shall be doubled. *f*

XXXV. IF a defendant shall put in a third insufficient answer, which shall be so adjudged, he or she may be examined upon interrogatories, and committed until he or she shall answer them, and pay costs. *f*

XXXVI. IF the defendant, after process of contempt, put in an insufficient answer, which shall be so adjudged, the complainant may go on with the subsequent process of contempt as if no answer had been put in.

XXXVII. RULES to plead, answer, reply, rejoin, &c. or process not before particularly mentioned, when necessary, shall be given from month to month with the Clerk in his office, and shall be entered in a rule book for the information of all parties, attornies, or solicitors, concerned therein. *f*

XXXVIII. NO defendant shall be admitted to put in a rejoinder, unless it be filed on or before the expiration of the rule to rejoin, but the complainant may proceed to set his cause down for hearing. *f*

XXXIX. AFTER an attachment with proclamation returned, no plea or demurrer shall be received, unless by an order of Court, upon motion. *f*

(a) 1790, ch. 12, sec. 3. (b) Oct. 1777, ch. 15, sec. 8 9. (c) 1787, ch. 9, sec. 2, as altered by 1790, ch. 12, sec. 3. (d) 1787, ch. 9, sec. 2. (e) Oct. 1777, ch. 15, sec. 10 11. (f) Oct. 1777, ch. 15, sec. 12 13 14 15 16 17 18 19.

XL. IF the complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may set it down with the Clerk to be argued; or if he thinks the plea good, but not true, he may take issue upon it, and proceed to trial by jury, as has been heretofore used in other causes in Chancery, where trial hath been by jury: And if thereupon the plea shall be found false, the complainant shall have the same advantages as if it had been so found by verdict at common Law. *a*

XLI. IF a plea or demurrer be over-ruled, no other plea or demurrer shall be thereafter received, but the defendant shall answer the allegations of the bill. *a*

XLII. IF the complainant shall not proceed to reply to, or set for hearing, as before mentioned, any plea or demurrer before the second Court after filing the same, the bill may be dismissed of course with costs. *a*

XLIII. UPON a plea or demurrer argued and over-ruled, costs shall be paid as where an answer is judged insufficient, and the defendant shall answer within two calendar months after, but if adjudged good, the defendant shall have his costs. *a*

XLIV. IF any defendant, after a demurrer shall have been over-ruled, shall refuse to answer, the bill shall be taken as confessed, and the matter thereof decreed. *a*

XLV. AFTER any bill filed, and before the defendant hath answered, upon oath made that any of the complainant's witnesses are aged, and infirm, or going out of the country, the Clerk may issue a commission for taking the examination of such witnesses *de bene esse*; the party praying such commission, giving reasonable notice to the adverse party, of the time and place of taking the depositions. *a*

XLVI. WHENEVER a general commission shall issue for taking depositions upon answer and replication, six months from the time of the replication shall be allowed the parties for taking their depositions, and either party at the expiration of the said six months may set the same for hearing; nor shall any deposition taken after that time be read as evidence on the hearing, except the same was taken by consent of the parties, by special order of Court, or out of the State. *b*

XLVII. THE Court in their sittings may regulate all proceedings in the office, and for good cause shewn, may set aside any dismissions, and re-instate the suits on such terms as shall appear equitable. *c*

XLVIII. FOR prevention of errors in entering up the decrees and orders of the Court, the proceedings of every day shall be drawn up at large by the Clerk, and read in open Court the next day, (except those of the last day of each term, which shall be drawn up, read, and corrected the same day) and any necessary corrections made therein, when they shall be signed by the Judge of the Court, and preserved among the Records. *c*

XLIX. AND for the more entire and better preservation of the Records of the Court, when any cause shall be finally determined, the Clerk shall enter all the pleadings therein, and other matters relating thereto together, in a book to be kept for that purpose, so that an entire and perfect Record may be made thereof, and those wherein the title to lands is determined, shall be entered in separate books to be kept for that purpose only. *c*

L. THE Court in session, or the Judge in vacation, may grant writs of *certiorari*, for removing before the said Court the proceedings in any suit in Chancery, depending in any County or other Inferior Court, writs of *ne exeat* to prevent the departure of any defendant out of the Country, until security be given for performing the decree, and writs of injunction to stay execution of judgments obtained in any of the Courts of Common Law, subject nevertheless to the rules following: *c*

LI. NO writ of *certiorari* shall be granted to remove any suit, unless the matter in dispute be of value sufficient to entitle the High Court of Chancery to original jurisdiction therein, nor unless ten days notice of the motion be given in writing to the adverse party, nor in vacation but upon such petition and affidavit as are by Law directed for writs of *certiorari* to be granted by the District Courts; and in all cases, bond and security shall be given for performing the decree of the said High Court of Chancery, before the issuing of the *certiorari*. *c*

LII. WRITS of *ne exeat* shall not be granted but upon a bill filed and affidavits made to the truth of its allegations, which being produced to the Court

(a) Oct. 1777, ch. 15, sec. 20, 21, 22, 23, 24, 25. (b) 1787, ch. 9, sec. 2.
(c) Oct. 1777, ch. 15, sec. 28, 29, 30, 31, 32.

When plaintiffs may obtain commissions *de bene esse*.

After a general commission, six months allowed for taking depositions. When causes are to be set for hearing.

Proceedings in the office to be regulated by the Court.

Proceedings in Court to be read before signing.

Complete records to be made in suits determined.

Writs of *certiorari*, *ne exeat* and injunction, how granted.

Rules as to writs of *certiorari*.

As to writs of *ne exeat*, and how they may be discharged.

in term time, or the Judge in vacation, such writ may be granted or refused as shall seem just; and if granted, he shall direct to be endorsed thereon in what penalty, bond and security shall be required of the defendant. *a*

LIII. IF the defendant shall by answer satisfy the Court that there is no reason for his restraint, or give sufficient security to perform the decree, the writ may be discharged. *a*

As to injunctions.

LIV. NO injunction shall be granted to stay proceedings in any suit at Law, unless the matter in dispute be of value sufficient to admit of original jurisdiction in the said High Court of Chancery, nor unless the Court in term time, or the Judge thereof in vacation, shall be satisfied of the plaintiff's equity, either by affidavit, certified at the foot of the bill, that the allegations thereof are true, or by other means, and shall order the same. *a*

LV. WHERE any injunction shall be granted, the Clerk shall endorse on the *subpoena* that the effect thereof is to be suspended, until the party obtaining the same shall give bond with sufficient security, in the office of the Court in which the judgment to be enjoined shall have been obtained. *b*

LVI. THE party obtaining the injunction shall then enter into bond with sufficient security, and file the same in the Clerk's office of that Court in which the proceedings at Law were had, for paying all money and tobacco and costs due, or to become due to the plaintiff in the action at Law, and also all such costs as shall be awarded against him or her in case the injunction shall be dissolved; and the Clerk shall endorse on the *subpoena* that the bond is filed. *b*

Court may appoint commissioners in cases which require reports and make them an allowance for their trouble.

Method of proceeding against defendants in custody who refuse to enter their appearance.

LVII. IT shall be lawful for the High Court of Chancery in such cases as may require a report, which cannot be performed without great delay to other business, to employ one or more commissioners, and to cause a reasonable allowance to be taxed in the bill of costs. *c*

LVIII. IF any defendant or defendants shall be in custody upon any process of contempt, and be brought into Court by virtue of a writ of *Habeas Corpus*, or other process, and shall refuse or neglect to enter his or her appearance according to the rules of the Court, or appoint an Attorney of the Court to do the same for him, the Court in such case may direct an Attorney to enter an appearance for the defendant or defendants, and thereupon such proceedings may be had, as if he or they had actually entered an appearance; but if such defendant or defendants shall be in custody at the time a decree shall be made upon refusal or neglect to enter an appearance, or to appoint an Attorney as aforesaid, or shall be forth coming so as to be served with a copy of the decree, then such defendant or defendants shall be served with such copy before any process shall be taken out to compel the performance thereof; and if such defendant or defendants shall die in custody before such service, then his heir, if any real estate be sequestered or affected by such decree, or if only personal estate, his executor or administrator shall be served with a copy in a reasonable time after such death shall be known to the plaintiff, and who is such heir, executor, or administrator. *d*

How appeals may be obtained from decrees in the High Court of Chancery, where not entered when the decrees were pronounced.

LIX. WHEREAS many persons against whom decrees may have been rendered in the High Court of Chancery, may desire to appeal from such decrees, but have been hindered from doing so, at the term in which the said decrees were pronounced; *Be it enacted*, that if upon a petition to any Judge of the Court of Appeals, or the Judge of the High Court of Chancery in vacation next after the Term, when such decree shall have been rendered, for relief in such a case, it shall appear to his satisfaction, that the failure to appeal from his decree, at the time, or during the Term when it was pronounced, did not arise from any culpable neglect in the petitioner, or that upon the whole circumstances of the case, the petitioner ought to have the benefit of an appeal, it shall be lawful for the said Judge to grant the said appeal, which grant of appeal, shall be as effectual, both for staying proceedings on the said decree, and for bringing the same before the Court of Appeals for their decision, as if the same had been duly made during the Term when the said decree was pronounced.

Proceedings on decrees may be stayed during the pendency of bills of review.

LX. AND whereas upon bills of review in the said High Court of Chancery, the Judge of the said Court may think it reasonable, during the pendency of such bills, or until cause shall be shewn to the contrary, to stay proceedings on the decree, which such bills are intended to review: *Be it enacted*, that in

(a) Oct. 1777, ch. 15, sec. 33, 34, 35. (b) 1787, ch. 9, sec. 4. (c) 1788, ch. 67. (d) Oct. 1777, ch. 15, sec. 38.

such case, the Judge of the said High Court of Chancery, either in Term time or in vacation, when a bill praying a review of the proceedings in which a decree shall have been pronounced by the said Court, shall be presented to him, may upon such bill, and the circumstances of the case, as the same shall appear satisfactory to him, direct proceedings on such decree to be stayed, until a decree on the said bill of review shall be made, or until the further order of the said Judge; or the said Judge may refuse to grant a stay of proceedings in that case, as to him shall seem right. *Provided*, That the said Judge of the High Court of Chancery shall in either of the said cases direct such security to be given, and in such place as is usual in the cases of appeal and injunction, or such other security as to him shall seem to be reasonable.

LXI. ALL Acts and parts of Acts, within the purview of this Act, shall be, and are hereby repealed. Former Acts repealed.

LXII. THIS Act shall commence and be in force, from and after the passing thereof. Commencement of this Act.

CHAP. LXV.

An Act reducing into one, the several Acts and Parts of Acts concerning the General Court, and prescribing the Manner of proceeding therein in certain cases.

[Passed the 13th of December, 1792.]

I. **B**E it enacted by the General Assembly, That the General Court of this Commonwealth shall consist of ten Judges, to be chosen and commissioned in the manner directed by the Constitution of the Commonwealth. Any three of the said Judges shall constitute a Court, except in cases of impeachment, on which occasion a majority of the whole number shall be necessary. The said Court shall be holden at the Capitol in the City of *Richmond*, or at such other place as shall be appointed by the General Assembly, or in their recess, by the Governor, with the advice of the Council of State, on any such emergency as will make the adjournment lawful. The said Court shall be holden twice in every year, namely, on the ninth day of *June* and the ninth day of *November*, or if either of those days shall be *Sunday*, then on the succeeding day, and shall continue their Session for sixteen juridical days at each Term, unless the business before them be sooner dispatched. If a sufficient number of Judges should not attend on the first day of any Term, or on any other day during the Term, any one of the said Judges may adjourn the Court from day to day, for six days successively, and if a sufficient number should not be then able to attend, all suits depending in such Court, shall stand continued over to the next succeeding Term. Every person so commissioned before he enters upon the duties of his office, shall take and subscribe the oath of fidelity to the Commonwealth, and take the following oath of office, to wit:

YOU shall swear that well and truly you will serve this Commonwealth in the office of a Judge of the General Court, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to Law, without respect of persons. You shall not take by yourself, or by any other, privily or openly, any gift, fee, or reward of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done, by virtue of your office, except such fees or salary, as shall be by Law appointed. You shall not maintain by yourself, or other, privily or openly, any plea or quarrel, depending in the Courts of this Commonwealth. You shall not deny or delay any person of common right, for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary to Law, you shall nothing do for such letter or request, but you shall proceed to do the Law, any such letter or request notwithstanding; and finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial Justice, without fraud, favor, affection or partiality. So help you GOD.

Which oaths may be taken before the Executive, any Court of Record, or a Justice of the Peace, and a certificate thereof being obtained, shall enable such Judge to do all the duties of his office, and such certificate shall be recorded in the General Court, or District Court where such Judge shall first sit. If any person shall presume to sit in Court or execute the said office, without having

General Court to consist of ten Judges: how chosen & commissioned.

Where to be held.
Terms.
Regulations respecting adjournment.

Oaths to be taken by the judges.

By whom to be administered.

Penalty for acting without taking the oaths.

taken the said oaths, he shall for such offence forfeit the sum of fifteen hundred dollars. *a*

Officers to be appointed by the court. Sheriff of the county in which the court sits to attend.

II. THE said Court shall appoint a Clerk, one or more assistant Clerks, if necessary, a Cryer and Tipstaff, the first removable for misbehaviour in the manner directed by the Constitution, the others at pleasure; who shall be entitled to such fees or salaries as shall be established by Law. And the Sheriff, or so many of the Under-Sheriffs as shall be thought necessary, of the County where such Court may be held, shall attend the said Court during their Sessions. *b*

Jurisdiction of the court

III. THE jurisdiction of the said Court shall be general over all causes, matters and things at common Law, as well criminal as civil, except in such cases, as by the Constitution of the United States of America, or of this Commonwealth, or any Statute made by the Congress of the said United States, or the General Assembly of this Commonwealth, are or shall be vested in any other tribunal; in any of which cases the jurisdiction of the General Court shall cease, unless concurrent jurisdiction be thereto expressly given by this Act, or some other Statute. The said Court shall have jurisdiction in all causes, matters and things therein depending at the commencement of this Act; and no discontinuance shall take place in any case whatsoever, by reason of the passing of this Act. The said Court shall continue to have jurisdiction, in all cases, suits and motions against public debtors and public defaulters of every denomination, for and in behalf of the Commonwealth. If the Judge of the High Court of Chancery shall be interested in any matter, which in the case of any other person would have been proper for the jurisdiction of such Court, it shall be lawful to institute such suit in the General Court, where proceedings shall be had conformably to the principles and usages of equity; and process shall be returnable as the General Court shall direct; and thereafter an appeal may be had to the Court of Appeals. Writs of *scire facias* may be issued from, and be tried in the General Court, upon all judgments which have been or shall be obtained therein; the said Court may fine Sheriffs, Deputy-Sheriffs, or Coroners, for not returning executions issued, or to be issued from the said Court, and enter up judgments against the said officers, for all money or tobacco, for which they have made or shall make themselves respectively liable by Law upon such executions; may award executions upon replevy bonds, or bonds to have goods forth-coming at the day of sale; may quash executions if illegally or improvidently issued or executed, and award new ones; and finally, may exercise full jurisdiction in every other legal mode necessary for carrying into complete execution, all judgments heretofore given, or hereafter to be given in the said Court; any Law to the contrary, or seeming to the contrary, notwithstanding. The said Court shall have power to hear and determine upon all errors and matters of fact, that shall or may have happened in the proceedings depending in the said Court. *c*

May award writs of Mandamus to the district courts. Further description of jurisdiction.

IV. THE said Court shall have power to issue writs of *mandamus* to the District Courts. *c*

May for good cause direct any suit in a district court to be tried at their own bar or in another district.

V. THE said Court shall likewise have jurisdiction to hear and determine motions against the delinquent subscribers of the *Potomac* and *James River* Companies, and for securities against their principals; and for Sheriffs against their deputies and securities, or either of them. *d*

Suits in which judges are parties, to be removed to the General Court.

VI. FOR good cause shewn, the General Court may direct the trial of any cause depending before a District Court, to be had by a jury at their own bar, for which purpose the Sheriff, or any other officer attending them, shall summon a Jury qualified as the Law now directs in cases of Juries in the General Court; or may cause a suit depending in one District to be tried in another. *e*

Jurisdiction relative to wills, administrations, &c.

VII. UNLESS good cause be shewn to the contrary, the General Court shall direct a suit depending before a District Court, in which a Judge of the General Court is a party, to be removed to be tried at the bar of the General Court. *f*

VIII. THE General Court shall have jurisdiction and authority to hear and determine all causes, matters, suits, and controversies testamentary, which shall be brought before the same, and to examine and take the proofs of wills, and to hear and determine the right of administration of the estates of persons

(a) Oct. 1777, sec. 2, 5. 1788, ch. 67, sec. 115, 116. *ibid.* ch. 72, sec. 3.
(b) Oct. 1777, ch. 17, sec. 6. (c) *ibid.* sec. 2. 1788, ch. 67, sec. 117. *ibid.* ch. 69, sec. 7. (d) 1789, ch. 13, sec. 8. (e) 1788, ch. 67, sec. 119 and 120.
(f) 1789, ch. 13, sec. 29.

lying intestate, and to do all other things concerning wills and administrations, according to Law. *a*

IX. THE said Court shall have power and authority to receive *probat* of all deeds whatsoever, concerning lands in any part of this Commonwealth, to issue commissions for the privy examination of any *feme covert*, and to admit the same to Record, as also to receive proof of any other deed or instrument of writing whatsoever, and to admit the same to Record therein, if they shall be of opinion that the same is proper to be done. A deed for lands now or at any time hereafter partly proved in the General Court, may either be fully proved there, or shall be delivered by the Clerk thereof to any person authorized to demand the same, with an endorsement of the proof made, and it may be fully proved and recorded in the Court of the District or County in which the lands lie. *a*

X. IF a question of Law in any criminal case be adjourned to the General Court by any District Court, the same may be therein argued and determined, although such criminal be not present. *a*

XI. ON the adjournment of any question of Law in any civil suit, the said Court shall hear, determine, and certify such their determination on the same, to the Court from whence the question was adjourned; but no costs shall be incurred on any adjourned question. *b*

XII. ALL original process to bring any person or persons to answer in any action or suit, information, bill or plaint, in the said Court, and all subsequent process thereon, all attachments or other writs of what nature soever awarded by the said Court, shall be issued and signed by the Clerk of the said Court in the name of the Commonwealth, shall bear teste by the Clerk, and be returnable on the first day of the next succeeding Court, except *subpoenas* for witnesses; and all such process may be executed at any time before the return day, except in such cases wherein it is otherwise directed by Law. *c*

XIII. THE appearance day to all writs and process awarded by the said Court, shall be according to the direction thereof. *d*

XIV. THE Sheriff for the time being of the County in which the General Court shall be held, shall before every meeting of the General Court, summon twenty-four Freeholders of this Commonwealth, qualified as the Law directs for Grand Jurors, to appear at the succeeding General Court on the first day thereof, which the Sheriff is hereby empowered to do, as well without his County as within the same, and the said twenty-four men, or any sixteen of them shall be a Grand Jury, who shall be sworn to enquire of and present all offences against the Commonwealth, which are cognizable in the said Court. And if an indictment shall be found or presentment made of any such offence, the like proceedings shall be thereupon had to bring the party accused before the Court, as on indictments and presentments in the District Courts, having regard to the nature of the offence.

XV. THE rules and proceedings in the General Court, in all cases, not otherwise specially directed, shall be the same as in the District Courts in similar cases, and the said Court shall have the same power of awarding and refusing costs, as the District Courts have in like cases.

XVI. THE keeper of the public jail, shall constantly attend the General Court, and execute the commands of the Court. *e*

XVII. THE Clerk of the General Court shall annually before the last day of *January*, transmit to the Sheriff of each County within this Commonwealth, a list of all fines imposed by the said Court in the year next preceding, to the use of the Commonwealth, on persons residing in such County, and the Sheriffs shall respectively proceed to collect, levy, account for, and pay the same in like manner, and subject to the same remedy and proceedings against them for default as is or shall be directed in case of public taxes, being allowed in their accounts for insolvents, and five *per centum* commissions; and the said Clerk shall transmit copies of such lists to the Auditor, to enable him to call the Sheriffs to account. *f*

XVIII. ALL and every Act, clause and parts of Acts, within the purview of this Act, shall be, and are hereby repealed.

XIX. THIS Act shall commence in force, from and after the passing thereof.

[*a*] 1789, *ch.* 13, *sec.* 4 8 9 27. [*b*] 1788, *ch.* 67, *sec.* 17. [*c*] Oct. 1777, *ch.* 17, *sec.* 7. 1788, *ch.* 67, *sec.* 23 118. [*d*] 1789, *ch.* 13, *sec.* 31. [*e*] Oct. 1777, *ch.* 17, *sec.* 72. [*f*] Oct. 1777, *ch.* 17, *sec.* 75. 1788, *ch.* 67, *sec.* 132.

Deeds partly proved, may be either fully proved therein, or delivered to the parties to be fully proved in the district or county courts.

Rules respecting adjourned cases.

Rules respecting process

The court to direct the appearance day.

Grand jury to be summoned. Proceedings on indictments, presentments, &c.

Keeper of the public jail to attend the court.

The clerk to transmit lists of fines imposed by the court to the sheriffs.

Former acts repealed.

Commencement of this act.

CHAP. LXVI.

An Act reducing into one, the several Acts concerning the Establishment, Jurisdiction, and Powers of District Courts.

[Passed the 12th of December, 1792.†]

The commonwealth divided into districts, and a superior court to be held in each at certain places and on certain days.

I. **B**E it enacted by the General Assembly, That this Commonwealth shall be divided into Districts, and a Superior Court holden in each, in the manner, and at the times and places herein after mentioned; that is to say:—The Counties of *Henrico, Hanover, Chesterfield, Goochland, and Powhatan*, shall compose one District, and a Court shall be holden for the same at the Capitol in the City of *Richmond*, on the first day of *April*, and the first day of *September* in every year; the Counties of *James City, Charles City, New-Kent, Surry, Gloucester, Mathews, York, Warwick, and Elizabeth City*, shall compose another District, and a Court shall be holden for the same at the City of *Williamsburg*, in the former Capitol, on the twenty-ninth day of *April*, and the twenty-ninth day of *September*, in every year; the Counties of *Richmond, Westmoreland, Lancaster, and Northumberland*, shall compose another District, and a Court shall be holden for the same at *Northumberland Court-house*, on the first day of *April*, and first day of *September*, in every year; the Counties of *Essex, Middlesex, King & Queen, and King William*, shall compose another District, and a Court shall be holden for the same at *King & Queen Court-house*, on the fifteenth day of *April*, and fifteenth day of *September*, in every year; the Counties of *Spottsylvania, Caroline, King George, Stafford, Orange, and Culpeper*, shall compose another District, and a Court shall be holden for the same at *Fredericksburg*, on the twenty-ninth day of *April*, and the twenty-ninth day of *September*, in every year; the Counties of *Frederick, Berkeley, Hampshire, Hardy, (a) and Shenandoah*, shall compose another District, and a Court shall be holden for the same at *Winchester*, on the fifteenth day of *April*, and the first day of *September*, in every year; the Counties of *Augusta, Bath, Rockbridge, Rockingham, and Pendleton*, shall compose another District, and a Court shall be holden for the same at *Staunton*, on the first day of *April*, and the first day of *September*, in every year; the Counties of *Albemarle, Louisa, Fluvanna, and Amherst*, shall compose another District, and a Court shall be holden for the same at *Charlottesville*, on the fifteenth day of *April*, and the fifteenth day of *September*, in every year; the Counties of *Fairfax, Fauquier, Loudoun, and Prince William*, shall compose another District, and a Court shall be holden for the same at *Dumfries*, on the twelfth day of *May*, and the twelfth day of *October*, in every year; the Counties of *Harrison, Monongalia, Ohio, and Randolph*, shall compose another District, and a Court shall be holden for the same at *Monongalia Court-house*, on the third day of *May*, and the twentieth day of *September*, in every year; the Counties of *Washington, Russell, and Wythe*, shall compose another District, and a Court shall be holden for the same at *Washington Court-house*, on the second day of *May*, and the second day of *October*, in every year; the Counties of *Norfolk, Isle of Wight, Princess Anne, Nansemond, and Southampton*, shall compose another District, and a Court shall be holden for the same at *Suffolk*, on the twelfth day of *May*, and the twelfth day of *October*, in every year; the Counties of *Prince George, Sussex, Dinwiddie, Nottoway, and Amelia*, shall compose another District, and a Court shall be holden for the same at *Petersburg*, on the fifteenth day of *April*, and the fifteenth day of *September*, in every year; the Counties of *Brunswick, Greenville, Lunenburg, and Mecklenburg*, shall compose another District, and a Court shall be holden for the same at *Brunswick Court-house*, on the twenty-ninth day of *April*, and the twenty-ninth day of *September*, in every year; the Counties of *Prince Edward, Buckingham, Charlotte, Halifax, and Cumberland*, shall compose another District, and a Court shall be holden for the same at *Prince Edward Court-house*, on the first day of *April*, and the first day of *September*, in every year; the

† 1788, ch. 67. See acts of 1795, ch. 15. [a] By act of 1796, pa. 41, *Hampshire, Hardy & Pendleton* formed into a separate district, & a court to be held on 5th May and 5th Sept.—and by another act of '96, pa. 21, *Dist. Ct. of Dumfries* to be held on 18th May and Oct. and may sit 15 days—*Winchester Dist. Ct.* to be held on 15th April and 29th Sept.—*Morgan Town Dist. Ct.* on 15th May & Sept.—*Brunswick Dist. Ct.* on 2d May and Oct. By the above mentioned act of '96, pa. 21, *Fredericksburg, Winchester and Petersburg* may also sit 15 days.

Counties of *Bedford*, *Campbell*, *Franklin*, *Pittsylvania*, *Patrick*, and *Henry*, shall compose another District, and a Court shall be holden for the same at *New-London*, in the late Court-house of *Bedford* County, now belonging to *James* and *John Callaway*, who have agreed to put the same in repair, at their own expense, for the use of the District Court, so to be holden in *New-London*, on the fifteenth day of *April*, and the fifteenth day of *September*, in every year; the Counties of *Acomack*, and *Northampton*, shall compose another District, and a Court shall be holden for the same at *Accomack* Court-house, on the fourteenth day of *May*, and the fourteenth day of *October*, in every year; the Counties of *Greenbrier*, *Botetourt*, *Montgomery*, (a) and *Kanawha*, shall compose another District, and a Court shall be holden for the same at *Lewisburg* in *Greenbrier*, and *Botetourt* Court-house, alternately, on the eighteenth day of *May*, and the eighteenth day of *October*, in every year, until the Proprietor of the *Sweet Springs* shall erect a sufficient Court-house and Prison for the purposes of this Act, after which time the *Sweet Springs* shall become the Seat of the District Court. And if any of the said several days be *Sunday*, the Courts shall in that case respectively begin on the succeeding day. Each Court shall sit, if business require it, twelve days successively, *Sundays* exclusive (unless such sitting shall interfere with some other District Court in the same circuit) and no longer, and shall be a Court of Record. b

Length of the Sessions.

II. THOSE Counties which shall hereafter be made, shall, if taken from one County, or from two or more Counties lying in the same District, remain in the District to which they formerly belonged; and if taken from two or more Counties lying in different Districts, the Counties so to be made, shall be annexed (unless it be otherwise declared by the Legislature) to such of the Districts in which the old Counties lie, as shall be approved by the Executive, subject to the revision of the General Assembly. c

Counties hereafter made to what districts to be annexed.

III. IT shall be the duty of two of the Judges of the General Court to attend each District Court at their respective Terms; and the said two Judges shall constitute a Court for such District. In case of a temporary appointment of a Judge made by the Executive, such Judge shall take the place of him in whose stead he was appointed: *Provided nevertheless*, that if any one of the said Judges shall not attend the Court, to which he shall be so allotted, in such case the other Judge shall constitute a Court, under the restrictions herein-after mentioned. d

Two of the judges of the General Court to attend each District Court.

IV. EACH Judge of the General Court, besides the oaths required by Law to be taken by him as such, shall take another oath as Judge of the District Courts, in the same form as that prescribed by Law for a Judge of the General Court, changing the words "General Court," for "District Courts;" which oaths may be taken before the Executive, any Court of Record, or a Justice of the Peace, and a certificate thereof being obtained, shall enable him to do all the duties of office, and to act as a general Conservator of the Peace throughout the Commonwealth. Such certificate shall be recorded in the General Court, or District Court where such Judge shall first sit. Any person appointed a Judge of the General Court may act as a Judge of the District Courts, without having taken the oaths as a Judge of the General Court. Any Judge who shall sit as a Judge of a District Court, without having taken the oaths herein required to be taken by him, shall forfeit the sum of fifteen hundred dollars, to be recovered by action of debt or information in any Court of Record, one half to the use of the Commonwealth, and the other half to the use of the Informer. e

Each judge of the General Court to qualify as a judge of the District Courts. And may act as such without qualifying as a judge of the General Court.

Penalty for acting as a judge of the District Courts without qualifying as such.

V. If neither of the Judges shall attend on the first day of any District Court, such Court shall stand adjourned from day to day until a Court shall be made, if that shall happen before four of the clock in the afternoon of the sixth day. If a Court shall not sit in any Term, or shall not continue to sit the whole Term, or before the end of the Term shall not have heard and determined all matters ready for their decision, all such suits and things depending in Court and undecided, shall stand continued to the next succeeding Term. f If from any cause the Court shall not sit on any day in a Term after it shall have

Regulations respecting adjournment of the courts and continuance of causes when they do not sit or do not finish the business.

(a) *Montgomery* added: 1789, ch. 56. (b) *Some lengthened by act of 1796, pa. 21.* (c) 1788, ch. 67, sec. 3. (d) 1783, ch. 67, sec. 4, much altered: by above sec. allotments were directed. (e) 1783, ch. 67, sec. 6, 7. 1782, ch. 13, sec. 13. (f) 1783, ch. 67, sec. 8, 9.

Their jurisdiction.

been opened, there shall be no discontinuance; but so soon as the cause is removed, the Court shall proceed to business until the end of the Term, if the business depending before them be not sooner dispatched. *a*

VI. THE jurisdiction of the said Courts respectively, shall be over all persons, and in all causes, matters or things at common Law, which were cognizable in the General Court† on the twenty-second day of *December*, one thousand seven hundred and eighty-eight, and which shall amount to one hundred dollars, or three thousand pounds of tobacco, whether brought before them by original process, by *habeas corpus*, appeal, writ of *error*, *superfedeas*, *mandamus*, *certiorari*, to remove proceedings on a forcible entry or detainer, or for any other purpose, or by any legal ways or means whatsoever, except in the cases herein after mentioned, and such cases as by the Constitution of this Commonwealth, or some particular Statute heretofore made or hereafter to be made, are or shall be exclusively vested in, or reserved to the General Court. They shall also have the same jurisdiction concerning mills, wills, roads, and letters of administration, public debtors, whether Sheriffs or others, and the recording of deeds for lands and other property within the District, and *caveats*, as the General Court heretofore had by Law, allowing the person entering any *caveat* to return a certified copy thereof, from the Register to the District Court office, within thirty days from the time of entering the said *caveat*. And the said Courts shall hear and determine all controversies touching the same. *Provided also*, That writs of *habeas corpus*, appeal, *error*, *superfedeas*, *mandamus* and *certiorari*, and controversies concerning mills, wills, roads, *caveats*, and letters of administration, shall not be heard or determined by any District Court, unless such writ of *error*, *superfedeas*, *mandamus*, and *certiorari*, relate to some record or proceeding within the said District, or the person praying the *habeas corpus*, or the mills, or roads, or lands for which the *caveats* have been instituted be within the same, or the wills or letters of administration be cognizable by the Court of some County within the said District. Those cases in which the Court of Admiralty heretofore had jurisdiction by Law, and which are not taken away by the Constitution of the United States, are hereby transferred to the District Courts to be proceeded on as the Law requires in the said Court of Admiralty. *a*

Mode of trial.

VII. THE Court shall have power to try all issues and enquire of damages by a Jury in all causes before them, and to determine all questions concerning the legality of evidence and other matters of Law which may arise; for which trial the Court shall cause the Sheriff attending them, to summon, impanel, and return Jurors. *a*

Jurors to be summoned and impanelled.

Further description of jurisdiction.

VIII. THE Court shall hear and determine motions against Sheriffs or other Officers; and Attornies at Law for refusing to pay money due to Clients, for the Directors of the *James River* and *Potomac* Companies, and for securities against their principals, or against each other for contribution, in all cases and according to the rules prescribed by Law. *a*

New or difficult questions may be adjourned to the General Court.

IX. THE Court, when a question new or difficult arises, may adjourn any matter of Law to the General Court, or any party thinking himself aggrieved by the judgment of the District Court, may appeal thereupon as of right, or obtain a writ of *error* thereto from the Court of Appeals, not of right, but at the discretion of the Court. *b*

X. ON an adjournment of a question to the General Court, or an appeal or writ of *error* to the Court of Appeals, the same proceedings shall be had as in cases heretofore going from the General Court to the Court of Appeals, but no costs shall be incurred on any adjourned question. *b*

The District Courts in term time, or any judge in vacation may grant injunctions to judgments obtained therein.

XI. EACH of the said District Courts in Term time, or any Judge thereof in vacation, shall, and may have and exercise the same power of granting injunctions to stay proceedings on any judgment obtained in any of the said District Courts, as is now had and exercised by the Judge of the High Court of Chancery in similar cases, and the said District Courts may proceed to the dissolution or final hearing of all suits commencing by injunction, under the same rules and regulations as are now prescribed by Law for conducting similar suits in the High Court of Chancery. *c*

† Orphans and Guardians altogether omitted, it being doubtful whether the General Court had any control over them. See note of Revisers.

(a) 1788, ch. 67, sec. 10, 11, 12, 13, 14. (b) *Ib.* sec. 16, 17.

(c) It was decided by the General Court that this clause can only be executed by judges in Chancery, constituted in manner prescribed by the Constitution. See the case of *Kemper and Hawkins* adjudged from *Dumfries District*.

XII. WHENSOEVER there shall be a vacancy in the office of Clerk of any District Court, it shall be lawful for a majority of the Judges of the General Court to appoint, by commission under their hands and seals. *Provided*, that when such vacancy shall happen during the Session of a District Court, or the Judges of the General Court shall neglect to supply any vacancy until the ensuing Session of the District Court in which the vacancy shall be, it shall be lawful for the Judges attending such District Court to appoint a Clerk by commission under their hands and seals, which shall be as valid and effectual as if granted by a majority of the Judges of the General Court. And where the Clerk of any District Court cannot attend, it may be lawful for the Judge or Judges of such Court, to appoint a Clerk *pro tempore*. *a*

Vacancy in the office of clerk, how to be supplied.

When clerks *pro tempore* may be appointed.

XIII. EVERY person appointed Clerk of any District Court, having taken the oath for giving assurance of fidelity to the Commonwealth, and the oath required to be taken by Clerks of Courts, adapting the same to the District Court, shall thenceforth be enabled to execute the duties of his office; which oaths may be taken by the Clerks respectively, before any Court of Record in the Commonwealth, and a certificate thereof shall be entered of Record in his District, wherein at the first Session after his appointment, he shall moreover enter into bond, with sufficient security, in the penalty of ten thousand dollars, payable to the Governor or Chief Magistrate, and his Successors, with condition for the faithful performance of his duty; which bond may be put in suit for the benefit, and at the costs of any person or persons aggrieved by the non-feisance or mis-feisance of the Clerk, as often as there shall be occasion, until the whole penalty shall be recovered or levied. *a*

Every clerk to take the oaths of fidelity and of office, and to enter into bond with security for performance of his duty.

XIV. EACH Clerk shall hold his office during good behaviour, shall be removable on conviction upon an indictment or information, for mis-user or non-user in office, and shall reside and keep his office at the District Court-house of which he is Clerk; but when it is held alternately at different Court-houses, then he shall keep his office at either the one or the other Court-house, as he may think best. The Clerks fees shall be the same with those of the County Courts for similar services, and for all other services, the same as those of the Clerk of the General Court, and shall be collected and accounted for in the same manner, and under the same penalties, as those of the Clerks of the County Courts now are. *a*

Tenure of their office. How removable. To reside and keep their offices at the District court-houses; their fees.

XV. A TAX of one dollar shall be, and is hereby imposed on all final judgments in the District Courts, which shall be paid by the party obtaining the same, to the Clerk of the Court, before such judgment shall be entered, and taxed in the bill of costs, and in all other respects the tax on process in the District Courts shall be the same, and be taxed in the bill of costs in like manner as is by Law directed, and the taxes on appeals from the District Courts, and also on Attornies practising therein, shall be the same; to be collected, accounted for, and paid by the Clerks respectively, in the like manner, and subject to the same mode of proceeding against them for default, as is directed for the like taxes in the County Courts. But no tax shall be demanded on the judgments rendered on any appeal, writ of *error*, *superfedeas*, special verdict, or case agreed, transferred from the General Court to the District Courts. *b*

Taxes on judgments and process.

XVI. THE District Courts to be held as aforesaid, shall have full power to hear and determine all treasons, murders, felonies, and other crimes and misdemeanors, committed within their district, and which shall be brought before them, under the regulations hereinafter prescribed; that is to say: In all criminal cases where the charge shall be of such a nature as in case of conviction, to subject the party to capital punishment, or burning in the hand, two Judges shall be necessary to proceed upon the trial of the issue, whether in Law or fact. *Provided always*, That if only one Judge shall attend the said Court, and any prisoner shall notwithstanding petition to be brought to trial, in such case, one Judge shall constitute a Court for such purpose. When two Judges shall attend, all questions arising in criminal cases, and submitted to the Court, in case the Court shall be divided, shall be considered as adjudged in favor of the criminal; and if the Court shall be divided upon the final judgment or sentence, judgment shall be entered up in favor of the prisoner, and he forthwith discharged. When two Judges do not attend, all criminal cases depending in such court, and not tried upon the consent and petition of the prisoner, where the punishment shall be death, or burning in the hand, shall stand continued o-

Criminal jurisdiction. In what cases two judges shall be necessary to constitute a court.

Proviso. When the court is divided in a criminal case, the question to be considered as adjudged in favor of the criminal.

Mode of proceeding in criminal cases when two judges do not attend

(a) 1788, ch. 67, sec. 19, 20, 21.

(b) 1788, ch. 67, sec. 17, 127.

Certain cases excepted.

Questions of law in criminal cases may be adjourned to the General Court.

A Jailer to be appointed in each district. District Jails to be subject to the direction of the judges.

The judges to make allowances to the jailers.

Keepers of county jails, and as district jails, to be as keepers of the district jails.

District jailers to be exempted from serving in the militia and on juries.

Prisoners not to be held for non-payment of prison fees.

Guards may be impressed for the district jails.

Fees for keeping and dieting prisoners.

Prison rules to be assigned.

Payments of the District Courts in criminal cases, by whom to be made.

Allowances to be made to sheriffs attending the courts.

Court of Appeals to determine the terms of the courts.

ver to the next Court to be holden for that district; and if two Judges do not attend at such next Court, every prisoner whose cause has been so continued over, shall be bailed as of right, which bail shall be according to the degree of the offence, and the ability of the prisoner. And if such prisoner shall appear on the first day of the next Term, and render himself pursuant to his recognizance, and there shall not be a sufficient Court to try such prisoner, on or before the third day of that Court, such prisoner shall be forthwith discharged. *Provided always*, That any one Judge may hear and determine a motion in behalf of the Commonwealth, for giving judgment and awarding execution against any person convicted of a capital offence, where such criminal shall escape between the conviction and the sentence; or against any person attainted of a capital offence, where the day of execution shall have passed, and no pardon or reprieve shall have been granted. A District Court may adjourn a question of Law in any criminal case, to the General Court, with the consent of the criminal, which may be there argued and decided, although such criminal be not present: *a*

XVII. A PUBLIC Jailer shall be from time to time appointed to each District by the Governor and Council, who shall give bond and security to the Governor and his successors, in the penalty of fifteen hundred dollars, with condition for the faithful performance of the duties of his office, and shall be amenable to the Judges of the District Court; and the said Judges shall have the direction of the District Jail, and they are hereby authorized and required, from time to time, to order and direct such allowance to be made for the prisoners confined therein, and to fix what shall be paid to the keeper thereof for his trouble, as the said Judges shall think reasonable, and moreover to certify such allowance, from time to time, to the Auditor, who is hereby directed to debit the same, and give a warrant upon the Treasurer for the payment thereof. *Provided nevertheless*, That whenever the Jail of a County is used as a District Jail, the keeper of the County Jail, and no other, shall act as keeper of the Jail of the said District. The Jailer during his continuance in office, shall be exempted from serving in the militia, and on juries. The keeper of the District Jail shall constantly attend the said Court, and execute the commands of the said Court from time to time, and take or receive into his custody, all persons by the Court to him committed on original or mesne process, or in execution in any civil suit, or for any contempt to the Court, and him or them safely keep until thence discharged by due course of Law, and may demand of every such prisoner the legal fees for diet and care; but where such prisoner is so poor as not to be able to support him or herself in prison, the Jailer shall be allowed by the public, seventeen cents per day, for the maintenance of every such poor prisoner, and no security shall be demanded of him or her, nor shall he or she be detained for such prison fees. The Keeper of the District Jail, by order of any two Justices of his County, may impress guards for the safe keeping of all prisoners in his custody, to be paid by the public, a like sum and in like manner, as is by Law allowed for guards impressed by Sheriffs for securing prisoners. The fee to the Sheriff of the County, and to the District Jailer for keeping and dieting any such prisoner, shall be seventeen cents per day. *b*

XVIII. PRISON rules and bounds shall be assigned by the District Courts.

XX. TO prevent misconstruction, it is hereby declared, that the Sheriff of the County in which any District Court shall sit, shall execute all judgments rendered by such Court in any criminal case, provided such judgments are by Law to be executed in the said County. Every District Court may make a reasonable allowance to the Sheriff attending the same for his trouble, as well for his services heretofore rendered, as those in future to be by him performed, to be paid as the Cryer of the General Court; and the Auditor of Public Accounts is hereby required to issue warrants in favor of such persons as have heretofore acted as Cryers in the several District Courts, agreeable to the certificates of the Clerk of the said Courts, to be paid in the same manner as the Cryer of the General Court. *b*

XXI. THE Judges of the Court of Appeals shall direct the forms of writs, from time to time, in such manner as shall seem advisable, and until an altera-

(a) 1738, ch. 67. 1789, ch. 13. (b) 1783, ch. 67, sec. 96, 97, 98, 99, 100, &c. 1772, ch. 19. 1791, ch. 26. 1796, ch. 20. 1789, ch. 13, sec. 32, 30.

tion be made therein, the forms shall be as nearly as may be, assimilated to those now used in the General Court. *a*

XXI. ALL writs, summonses, and other legal process, shall be issued by the Clerk, bear teste in his name, and be returnable to the next Court to be holden for the District, except in the case of *subpoenas* for witnesses, which may be returnable immediately, if issued in Term time, or on any day of the Term. *a*

Directions concerning process.

XXII. WRITS of *habeas corpus* may be granted by the said Courts, pursuing in all respects the Act, intituled, "*An Act directing the mode of suing out and prosecuting writs of habeas corpus.*" And where any person shall be committed in any civil action to the Jail of any County or Corporation, for any cause or matter cognizable in the District Courts, it shall be lawful for the Clerk of the Court of the District wherein such commitment shall be, and he is hereby required, upon the application of such person, and a certificate of his or her being actually in jail, to issue a writ of *habeas corpus cum causa*, to remove the body of such prisoner into the District Jail, and the cause of his commitment into such District Court, returnable on the first day of the succeeding Court, if issued in vacation, on the last of the Term, if sued out whilst the Court is sitting. *b*

Writs of habeas corpus in what manner to be granted.

How to be obtained by any committed to a county jail in a civil action.

XXIII. IN all actions or suits which may be commenced against the Governor of this Commonwealth, any Member of the Privy Council, any of the Judges of the Superior Courts, or the Sheriff of any County, during his continuance in office, instead of the ordinary process, a summons shall issue to the Sheriff or other proper Officer, reciting the cause of action, and summoning such Defendant to appear and answer the same on the proper return day in the next District Court; and if such Defendant being summoned, or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, the Court shall proceed against such Defendant, in the same manner as if he had been taken upon a *capias ad respondendum*. *Provided always*, that after judgment and the return of a *feri facias* by the Sheriff of that County in which the Defendant in any such case resides, that no effects, or not sufficient are to be found in his bailiwick, to satisfy the said judgment, a *capias ad satisfaciendum* may be issued as in other cases. *c*

Process in suits against the Governor, Councilors, Judges, & Sheriffs.

XXIV. NO writ of *capias ad respondendum* shall be issued against any person in any other District than that in which he resides, until a *non est inventus* has been returned in his or her District, upon a *capias* issued against such Defendant in the same suit; and every writ issued contrary thereto, shall be void, and dismissed on the first calling thereof: *Provided nevertheless*, that where two or more persons are or shall be jointly, or jointly and severally bound for the performance of any contract, or for the payment of money or tobacco, by bond, covenant or otherwise, it shall be lawful to prosecute such persons jointly, in whatever District either of them may reside, and process shall be issued and served accordingly in any County or District wherein the non-resident Defendant or Defendants may be found; and where the bond or other writing on which such suits shall be founded, shall be filed in the General Court, in a County or other Inferior Court, in the Court of one District, and Oyer thereof, shall be demanded by the Defendant or Defendants to a suit in another District, it shall be sufficient for the Plaintiffs, in the last mentioned suit, to file a copy of the bond or writing, attested by the Clerk of the Court, wherein the same is filed, and the Defendant or Defendants shall be obliged to plead thereto in like manner, as if the original bond or writing was filed, and such copy shall be admitted as evidence on the trial. If, however, the Defendant or Defendants shall in such case plead that the original bond or writing is not his or their deed, the Clerk of the Court having such original paper in his custody, shall, on being summoned as a witness, attend with the same at the trial of the issue, for the inspection of the Jury. *c*

No person to be sued out of the district in which he resides until a *non est inventus* has been returned on a *capias* issued against him in such district.

In what cases copies of bonds may be filed and defendants in suits thereon shall plead thereto.

XXV. IN all actions to recover the penalty for breach of any Penal Law not particularly directing special bail to be given, in actions of slander, trespass, assault and battery, actions on the case for trover or other wrongs, and all personal actions, except such as shall be herein after particularly mentioned, the Plaintiff or his Attorney shall, on pain of having his suit dismissed with costs, indorse on the original writ or subsequent process, the true species of action, that the Sheriff, to whom the same is directed, may be thereby informed, whether bail is to be demanded on the execution thereof; and in the cases before men-

In certain suits plaintiff must indorse on the writ the true species of action.

(a) 1788, ch. 67, sec. 22, 23. (b) O.A. 1777, ch. 17, sec. 53. 1788, ch. 67, sec. 25, 26. (c) Amended so as to allow writs from the Court of one district to be served in another district.

When the sheriff may take the engagement of an attorney to appear for the defendant. Defendant not to be committed for want of bail in certain suits.

In certain cases a judge may direct an appearance bail.

Directions to the sheriff where bail is required.

When the bail may defend the suit.

How bail shall be given in *detinue*.

Remedy against sheriff neglecting to take sufficient bail.

Exceptions to bail, when to be made, and determined.

Sheriff's remedy against bail adjudged insufficient.

Office judgments, when set aside.

Errors in the office, how rectified.

Remedy of the bail and sheriff against the defendant's estate.

tioned, the Sheriff may take the engagement of an Attorney practising in the District Court, indorsed on the writ, that he will appear for the Defendant or Defendants, and such appearance shall be entered with the Clerk in the office, on the first day after the end of the Court to which such process is returnable, which is hereby declared to be the appearance day in all process returnable to any day of the Court next preceding. And although no such engagement of an Attorney shall be offered to the Sheriff, he shall nevertheless be restrained from committing the Defendant to prison, or detaining him in his custody for want of appearance bail, but the Sheriff in such case shall return the writ executed, and if the Defendant shall fail to appear thereto, there shall be the like proceeding against him only, as is herein after directed against Defendants and their appearance bail, where such is taken. *Provided always*, that any Judge of the General Court in actions of trespass, assault and battery, trover and conversion, and in actions on the case where, upon proper affidavit or affirmation it shall appear to him proper that the Defendant or Defendants should give appearance bail, may, and he is hereby authorised to direct such bail to be taken by indorsement on the original writ, or subsequent process; and every Sheriff shall govern himself accordingly. *a*

XXVI. IN all actions of debt, founded upon any writing obligatory, bill or note in writing for the payment of money or tobacco, all actions of *covenant* and *detinue*, in which cases the true species of action shall be indorsed on the writ as before directed, and that appearance bail is to be required, the Sheriff shall return on the writ, the name of the bail by him taken, and a copy of the bail bond to the Clerk's office, before the day of appearance; and if the Defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the Court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery as the Defendant might or would be subject to, if he had appeared and given special bail; and in actions of *detinue*, the bail piece shall be so changed, as to subject the bail to the restitution of the thing, whether animate or inanimate, sued for, or the alternative value, as the Court may adjudge. *b*

XXVII. AND if the Sheriff shall not return bail, and the copy of the bail bond, or the bail returned shall be adjudged insufficient by the Court, and the Defendant shall fail to appear and give special bail, if ruled thereto, in such case the Sheriff may have like liberty of defence, and shall be subject to the same recovery as is provided in the case of appearance bail. And if the Sheriff depart this life, before judgment be confirmed against him, in such case the judgment shall be confirmed against his Executors or Administrators, or if there shall not be a certificate of *probat* or administration granted, then it may be confirmed against his estate, and a writ of *fieri facias* may in either case be issued. But the Plaintiff shall object to the sufficiency of the bail during the sitting of the Court next succeeding that to which the writ is returnable, or in the office, on the first or second rule day, and at no time thereafter. And all questions concerning the sufficiency of bail so objected to in the office, shall be determined by the Court at their next succeeding Term; and in all cases where the bail shall be adjudged insufficient, and judgment entered against the Sheriff, he shall have the same remedy against the estate of the bail as against the estate of the Defendant. *b*

XXVIII. AND every judgment entered in the office against a Defendant and bail, or against a Defendant and Sheriff, shall be set aside, if the Defendant at the succeeding Court shall be allowed to appear without bail, put in good bail, being ruled so to do, or surrender himself in custody, and shall plead to issue immediately. The Court shall regulate all other proceedings in the office during the preceding vacation, and rectify any mistakes or errors which may have happened therein. *b*

XXIX. IN every case where judgment shall be confirmed against any Defendant or Defendants and bail, or the Sheriff, his Executors, Administrators, or estate, as aforesaid, the Court upon motion of such bail, or of such Sheriff, his Executors or Administrators, or any other person on behalf of his estate, may order an attachment against the estate of such Defendant or Defendants, returnable to the next succeeding Court, and upon the execution and return of such attachment, the Court shall order the estate seized, or so much thereof as will be sufficient to satisfy the judgment and costs, and all costs accruing under the attachment, to be sold as goods taken in execution upon a *fieri facias*, and

out of the money such judgment and costs shall be satisfied, and the surplus, if any, restored to the Defendant or Defendants when required. *a*

XXX. ANY Judge of the General Court, when the District Court is not sitting, or any Justice of the Peace, may take recognizance of special bail in any action therein depending, which shall be transmitted by the person taking the same, before the next succeeding Court, to the Clerk of the said Court, to be filed with the papers in such action, and if the Plaintiff or his Attorney shall except to the sufficiency of the bail so taken, notice of such exception shall be given to the Defendant or his Attorney, at least ten days previous to the day on which such exception shall be taken, and if such bail shall be adjudged insufficient by the Court, the recognizance thereof shall be discharged, and such proceedings shall be had, as if no such bail had been taken. *a*

How special bail may be taken in the country & excepted to.

XXXI. EVERY special bail may surrender the principal before the Court where the suit hath been or shall be depending, at any time either before or after judgment shall be given; provided such surrender be made before the appearance day of the first *scire facias* against the bail returned executed, or of the second returned *nihil*, but in either case the special bail shall pay the costs of the said *scire facias*, and judgment for the same shall be entered against him accordingly. Upon such surrender, the bail shall be discharged, and the Defendant or Defendants shall be committed to the custody of the Sheriff or Jailor attending such Court, if the Plaintiff or his Attorney shall desire the same, or such special bail may discharge himself or herself by surrendering the principal or principals to the Sheriff of the County where the original writ was served, and such Sheriff shall receive such Defendant or Defendants, and commit him, her, or them, to the Jail of his County, and shall give a receipt for the body or bodies of such Defendant or Defendants, which shall be by the bail transmitted to the Clerk of the Court where the suit is or was depending. When such surrender after judgment shall be to the Sheriff, he shall keep such Defendant or Defendants in his custody, in the same manner, and subject to the like rules, as are provided for debtors committed in execution, for the space of twenty days, unless the Creditor, his Attorney, or Agent, shall sooner consent to his, her, or their discharge. The bail shall give immediate notice of such render to the Creditor, his Attorney, or Agent, and if within the said twenty days, such Creditor, his Attorney, or Agent, shall not in writing charge the Debtor or Debtors in execution, he, she, or they shall be forthwith discharged out of custody, but the Plaintiff or Plaintiffs may nevertheless afterwards sue out any legal execution against such Debtor or Debtors, without suing out a *scire facias*. *a*

Surrender of principal and proceedings thereupon.

XXXII. WHEN the Sheriff or other proper officer, shall return on any original or mesne process, that he hath taken the body of any Defendant and committed him to prison for want of appearance bail, the Plaintiff may proceed, and the Defendant make his defence, in like manner as if his appearance bail had been entered and accepted, but the Defendant shall not be discharged out of custody until he shall put in good bail, or the Plaintiff shall be ruled by the Court to accept an appearance without bail, and where any Defendant after appearance entered, shall be confined to prison, the Plaintiff may file his declaration, give a rule to plead, and deliver copies of such declaration and rule to the Defendant or his Attorney, and if the Defendant shall fail to enter his plea, within two months after receiving such declaration and notice, the Plaintiff may have his judgment by default, as in other cases. *a*

Method of proceeding against a defendant in custody.

XXXIII. WHERE the Sheriff or other proper officer, shall return on any writ of *capias* to answer in any civil action, that the Defendant is not found within his bailiwick, the Plaintiff may either sue out an *alias* or a *pluries capias*, until the Defendant shall be arrested, or a *testatum capias*, where he shall be removed into another county, or may, at his election, sue out an attachment against the estate of the Defendant to force an appearance; and if the Sheriff or other officer shall return that he hath attached any goods, and the Defendant shall not appear and replevy the same, by entering his appearance and giving special bail, in case he shall be ruled so to do, the Plaintiff shall file his declaration, and be entitled to a judgment for his debt or damages and costs, which judgment shall be final in all actions of debt founded on any specialty, bill or note in writing, ascertaining the demand, unless the Plaintiff shall choose in any such case to have a writ of enquiry of damages, and in other cases the damages shall be settled by a Jury sworn to enquire thereof. The goods attached shall remain in the hands of the officer until such final judgment be entered, and

What further process when a *capias* is returned "not found." Proceedings on attachment returned "executed."

then be sold in the same manner as goods taken upon a *feri facias*, and if the judgment shall not be thereby satisfied, the Plaintiff may sue out execution for the residue; and in case more goods be attached than will satisfy the judgment, the surplus shall be returned to the Defendant. *a*

Where process is executed but not returned.

XXXIV. IF any writ or process shall be executed, and for want of a return thereof to the office from which it issued, an *alias*, *pluries*, attachment, or other process be awarded, the Sheriff shall not execute such subsequent process, but shall return the first process by him executed, if it be in his possession, but if it be not in his possession, then he shall return the subsequent process, with an indorsement of the execution of such first process, and the name of the appearance bail, if any was taken, and shall also return a copy of the bail bond, on which there shall be the same proceedings, as if the said first process had been duly returned. *b*

Rules to be observed in the prosecution of suits.

XXXV. RULES shall be monthly held in the Clerk's office of each District Court, beginning the day after the rising of such Court. The Plaintiff shall file his declaration in the Clerk's office at the next succeeding rule day, after the Defendant shall have entered his appearance, or the Defendant may then enter a rule for the Plaintiff to declare, which if he fails or neglects to do, at the succeeding rule day, or shall at any time fail to prosecute his suit, he shall be nonsuited, and pay to the Defendant or Tenant besides his costs, three dollars, where his place of abode is at the distance of twenty-five miles or under, from the place of holding the said District Court, and where it is more, ten cents for every mile above twenty. *b*

XXXVI. ONE month after the Plaintiff hath filed his declaration, he may give a rule to plead with the Clerk, and if the Defendant shall not plead accordingly at the expiration of such rule, the Plaintiff may enter judgment for his debt, or damages and costs. *b*

XXXVII. ALL rules to declare, plead, reply, rejoin, or for other proceedings, shall be given regularly from month to month, shall be entered in a book to be kept for that purpose, and shall expire on the succeeding rule day. *b*

XXXVIII. NO plea in abatement shall be admitted or received, unless the party offering the same, shall prove the truth thereof, by oath or affirmation, as the case may require. And no plea of *non est factum* offered by the person charged as the obligor or grantor of a deed, shall be admitted or received, unless the truth thereof shall in like manner be proved by oath or affirmation. *b*

XXXIX. AND where any person other than the obligor shall be Defendant, such Defendant shall prove by oath or affirmation, that he or she verily believes, that the deed on which the action is founded, is not the deed of the person charged as the obligor or grantor thereof; in which last mentioned case, the plea of *non est factum* shall not be admitted or received without such oath or affirmation. And where a plea in abatement shall upon argument be adjudged insufficient, the Plaintiff shall recover full costs, to the time of over-ruling such plea, a lawyer's fee only excepted. *b*

XL. THE Plaintiff in replevin, and the Defendant in all other actions, may plead as many several matters, whether of Law or fact, as he shall think necessary for his defence. *b*

Proceedings on a pluries returned "not to be found."

XLI. ON the return of the pluries, that the Defendant is not to be found, the Court instead of the process to outlawry formerly used, may order a proclamation to issue, warning the Defendant to appear at a certain day therein named, or that judgment will be rendered against him, which proclamation shall be published at three successive Court days, at the door of the Court-house of the County to which the last process was directed, and also three times in the *Virginia Gazette*; and if the Defendant fails to appear pursuant to such proclamation, the same proceedings shall be had, and the same judgment given, as in other cases of default. *b*

Judgments by default, non-suits, &c. when to be entered. Plaintiff in judgment by default may have a writ of enquiry.

XLII. All judgments by default for want of an appearance or special bail, or pleas as aforesaid, and non-suits or dismissions obtained in the office, and not set aside on some day of the next succeeding District Court, shall be entered by the Clerk as of the last day of the Term, which judgment shall be final in actions of debt, founded on any specialty, bill or note in writing, ascertaining the demand, unless the Plaintiff shall choose in any such case to have a writ of enquiry of damages, and in all other cases the damages shall be ascertained by a

(a) 1788, ch. 67, sec. 33. When sheriff is kept off by force, a return to that effect will authorize plaintiff to proceed as if it had been executed, or may award an al. or pl. caps. (See acts of 1799, ch. 8.)

(b) 1788, ch. 67, sec. 34, 35, 36, 37, 38, 39, 40, 41.

Jury, to be impannelled and sworn to enquire thereof, as is herein after directed. *a*

XLIII. BEFORE every District Court, the Clerk shall enter in a particular docket, all such causes, (and those only) in which an issue is to be tried, or enquiry of damages to be made, or a special verdict, case agreed, demurrer, or other matter of Law is to be argued, in the same order, as they stand in the course of proceeding, setting as near as may be, an equal number of causes to each day. *b*

Rules for docketing causes.

XLIV. IT shall be lawful for the District Courts, on giving judgment in any case removed by appeal, writ of error, *superfedeas*, or *certiorari*, from the Inferior Courts, either for the Appellant, Appellee, Plaintiff or Defendant, and in any cause originating in the District Courts, where the verdict or judgment shall be given for the Defendant, to award costs to the party or parties, in whose favor such judgment shall be given; and on all motions it shall be lawful for the said Courts to give or refuse costs at their discretion; and in all other causes where the Plaintiff shall recover debt or damages, the costs shall be governed by Law. *c*

In what cases the court may award costs.

In what to be governed by law.

XLV. A *CERTIORARI* to remove proceedings on a forcible entry or detainer, or for any other purpose, except the removal of a suit from an Inferior Court, may be granted without notice. *d*

When certiorari may be granted without notice.

XLVI. FOR preventing errors in entering up the judgments of the said Courts, the proceedings of every day shall be drawn up at large, by the Clerk against the next sitting of the Court, when the same shall be read in open Court, and such corrections as are necessary, being made therein, they shall be signed by the presiding Judge, and carefully preserved among the Records. On the last day of each Court, the proceedings therein shall be drawn up, read, corrected, signed and preserved as aforesaid. *e*

Proceedings to be read and signed.

XLVII. WHEN any cause shall be finally determined, the Clerk of the District Court, shall enter all the pleadings, and papers filed as evidence therein, and the judgment thereupon, so as to make a complete Record thereof, and those wherein the title of lands is determined, shall be entered in a separate book to be kept for that purpose. *f*

Complete records to be made of causes determined.

XLVIII. ON writs of *scire facias* for renewal of judgments, no judgment shall be rendered on the return of two *nihilis*, unless the Defendant resides in the District, or unless he be absent from the Commonwealth, and have no known Attorney within the same. But such *scire facias* may be directed to the Sheriff of any County in this Commonwealth, wherein the Defendant or his Attorney shall reside or be found, which being returned served, the Court may proceed to judgment thereon, as if the Defendant had resided in the District. *g*

Proceedings on writs of *scire facias* for renewal of judgments in certain cases.

XLIX. IF any person or persons shall desire to remove any suit depending in any Inferior Court, into the District Court, provided the same be originally cognizable therein, a *certiorari*, for such removal, may be granted by the District Court, for good cause shewn upon motion, and ten days previous notice thereof, given in writing to the adverse party, or in vacation, the party desiring such writ, shall by petition to the Judges of the General Court, set forth his or her reasons, and make oath before a Magistrate of the truth of the allegations of such petition, whereupon any Judge of the said Court, may, under his hand, order the *certiorari* to issue, and direct the penalty of the bond, to be taken previous thereto, or may reject such petition, as to him shall seem just; provided that ten days previous notice of the time and place of applying for such writ, be

Certiorari, how to be obtained.

(a) There seems to be a material difference between the 42d sect. of this act, and the clause in the act of 1753, (establishing the proceedings of the General Court)—Pa. 298 of old Revised Code, under which office judgments were entered, a part of which is in these words—"That upon the expiration of every rule, judgment by default, or a non suit shall be signed by the Clerk in the office, as of the preceding term, which judgment shall be final in actions of debt, where the debt is certain; and in other actions a writ of enquiry shall be executed." &c.

(b) The act of 1753, ch. 1, sec. 24, provides that writs of enquiry shall not be executed at the first term after they are ordered, without notice; and likewise that issues shall not be tried at the first term without notice; but if not tried on notice at the last term, they shall stand in the usual order for trial at the succeeding Court.—Note of Committee of Revision. The Legislature of '92 seem to have made no regulation on that subject.

(c) May 1783, ch. 40. (d) 1789, ch. 13, sec. 17. (e) 1788, ch. 67, sec. 80, 81, 82, 83. (f) Amended in 1797, ch. 14, pa. 11.

Rule respecting suits remanded.

Punishment of false swearers.

No writ of error or supersedeas before final judgment; or after five years from the date thereof; saving the rights of infants, &c.

Appeals to the District Courts in certain cases.

How a supersedeas may be obtained.

Writs of error or supersedeas not to be allowed unless judgment amounts to a certain sum

Bond and security to be given on obtaining an appeal, writ of error, &c.

Sufficient, if given by one of several parties.

Judgment on reversal.

Bonds on appeals, &c. may be given by any responsible person.

Damages upon affirmance.

given in writing to the adverse party, upon which order of the Judges, the Clerk shall issue the *certiorari*. *Provided*, that the party shall enter into bond with sufficient security, in the penalty so directed, with condition for satisfying all money or tobacco and costs, which shall be recovered against the party in such suit; but if any suit so removed by *certiorari*, shall be remanded to the Inferior Court, by *procedendo* or otherwise, such cause shall not afterwards be removed to the District Court, before judgment shall be given therein in the Inferior Court. *a*

L. THE Clerks of the District Courts, shall carefully preserve all such petitions for writs of *certiorari*, with the affidavits thereto, in the office; and if any person in such affidavit, shall wilfully make a false oath, and be thereof convicted, upon a prosecution commenced within twelve months after the offence committed, such offender shall suffer the pains and penalties directed for wilful and corrupt perjury. *a*

LII. NO writ of error or *supersedeas* shall be granted in any case, until a final judgment in the County or other Inferior Court. *a*

LII. NO *supersedeas* or writ of error, shall be granted to any judgment in the District or County, or other Inferior Court, after the expiration of five years, from and after the date thereof; saving the rights of infants, *femes coverte*, persons *non compos*, in prison, or beyond seas, until the expiration of two years after the disability ceases. *a*

LIII. WHERE any person or persons, body politic or corporate, shall think themselves aggrieved by the judgment, or sentence of any County Court, or Court of Hustings, in any action, suit, or contest whatsoever, where the debt or damages, or other thing recovered or claimed in such suit, exclusive of the costs, shall be of the value of one hundred dollars, or three thousand pounds of tobacco or upwards, or where the title or bounds of land shall be drawn in question, or the contest shall be concerning mills, roads, the *probate* of wills, or certificates for obtaining administration, such person or persons, body politic or corporate, may enter an appeal from such judgment or sentence, to the first day of the next Court of the District, in which such County is. *a*

LIV. THE party praying a writ of *supersedeas*, shall petition the District Court for the same, pointing out the errors he means to assign in the proceedings, and procure some Attorney practising in such Court respectively, to certify, that in his opinion there is sufficient matter of error for reversing the judgment, whereupon such Courts in their Session, or any Judge of such Court respectively in vacation, may order such writ to be issued, or reject the petition, as to them shall seem just. *a*

LV. WRITS of error or *supersedeas*, may be granted by a District Court, or any Judge of the General Court, to a judgment of a County Court, where such judgment shall be of the value of thirty-three dollars, and thirty-three cents, or one thousand pounds of tobacco, or upwards. *b*

LVI. BEFORE granting any appeal, or the issuing of any writ of error or *supersedeas*, the party praying the same, shall enter into bond with sufficient security, in a penalty to be fixed by the Court or Judge granting the same, with condition to pay the amount of the recovery, and all costs and damages awarded, in case the judgment or sentence be affirmed. Where several appeal, or obtain a writ of error or *supersedeas*, bond and security given by any party, shall be sufficient. *c*

LVII. IF upon hearing any writ of error or *supersedeas*, the judgment of the Inferior Court be reversed in whole or in part, the District Court shall enter such judgment thereupon, as ought to have been entered in the Inferior Court. *d*

LVIII. BONDS to be given in Court for obtaining writs of error, *supersedeas*, *certiorari*, appeals, or any other cause, shall be valid and sufficient if given by a responsible person and security, although the party interested in the event of the suit be not an Obligor. *d*

LIX. WHERE the Defendant in any personal action appeals, or obtains such writ of error or *supersedeas*, if the judgment be affirmed, the damages besides costs shall be ten *per centum per annum* upon the principal sum and costs, recovered in the Inferior Court, in satisfaction of all damages or interest. *d*

(a) 1788, ch. 67, sec. 84, 85, 86, 87, 88. (b) 1788, ch. 13, sec. 22.
(c) 1788, ch. 67, sec. 90. [See sec. 58 of this act.] (d) 1788, ch. 67, sec. 91, 92, 93.

LX. IN real or mixed actions the damages shall be thirty-three dollars and thirty-three cents, or two thousand pounds of tobacco, besides costs, and where the Plaintiff appeals in any action, if the judgment be affirmed, and in all controversies about mills, roads, probat of wills, or certificates for administration, if the sentence of the Inferior Court be affirmed, the party appealing shall pay to the other all costs. *a*

LXI. IF a Record on an appeal, writ of error, or *superfedeas*, be not delivered to the Clerk of the District Court before or during the second Term of such Court after the same was granted, the same shall not be received at any time thereafter, unless good cause be shewn to the Court to the contrary; and after such dismissal, no writ of error, or *superfedeas*, shall be allowed. *b*

LXII. IT shall be the duty of the Attorney General to nominate and appoint proper persons to prosecute for the Commonwealth, in such Courts as he cannot attend himself. *c*

LXIII. THE Clerk of each District Court shall annually before the last day of *January*, transmit to the Sheriff of each County within the District, a list of all fines imposed by the District Court in the year next preceding, to the use of the Commonwealth, on persons residing in such County, and the Sheriffs shall respectively proceed to collect, levy, account for, and pay the same in like manner, and subject to the same remedy and proceedings against them for default, as is or shall be directed in case of public taxes, being allowed in their accounts for Insolvents, and five *per centum* commissions; and the said Clerks shall severally transmit copies of such lists to the Auditor, to enable him to call the Sheriffs to account. *c*

LXIV. THE said Courts shall have jurisdiction respectively in all causes, matters and things in the District Courts respectively depending at the commencement of this Act, and no discontinuance shall take place in any case whatsoever, civil or criminal, which shall be depending in any District Court at the commencement of this Act, by reason of the passing thereof, but the same shall be therein tried and determined as if this Act had never been made.

LXV. ALL and every Act and Acts, clauses and parts of Acts, containing any thing within the purview of this Act, shall be, and are hereby repealed.

LXVI. THIS Act shall commence in force on the first day of *January*, one thousand seven hundred and ninety-three.

Rule respecting filing records on appeals.

Attorney General to appoint deputies.

Lists of fines imposed by the courts to be sent to the sheriffs, to be collected by them, and copies of such lists to be sent to the Auditor.

Jurisdiction as to causes now pending.

Former acts repealed.

Commencement of this Act.

CHAP. LXVII.

An Act to reduce into one, the several Acts concerning the County and other Inferior Courts of this Commonwealth.†

[Passed the 3d of December, 1792.†]

I. **B**E it enacted by the General Assembly, That in every County, City, Corporation, and Borough within this Commonwealth, in which the power of holding Courts hath been heretofore, or shall hereafter be vested by Law, a Court, to be denominated the Court of such County, City, Corporation, or Borough, respectively, shall hereafter continue to be held by the Justices of such Counties, and the Magistrates of such Cities, Corporations, and Boroughs, respectively, at the times and places, and in the manner hereinafter directed; any four of which Justices or Magistrates shall constitute a Court, except in such cases where a greater number may by any Law be directed. *d*

II. EVERY person appointed a Justice of the Peace for any County or Corporation, before his entering upon and executing the said office, shall publicly in the Court-house of his County or Corporation, and on a Court day, take the oath of fidelity to the Commonwealth, as also the following oaths, to wit:

YOU shall swear that as a Justice of the Peace, in the County, (or Corporation) of *in all articles in the commission to you directed, you shall do equal right to the poor and to the rich, to the best of your ability and judgment, and according to Law; and you shall not be of counsel of any quarrel hanging before you, and issues, fines, and amercements that shall happen to be made, and all forfeitures which shall fall before you, you shall cause to be entered without any concealment or embezzling; you shall not let, for gift, or other causes, but well and truly you shall do your office of a Justice of the Peace, as well within your County, (or Corporation)*

County and corporation courts to be held by the justices thereof.

Any four of them to constitute a court.

Justices shall be sworn.

Their oath.

(a) 1788, ch. 67, sec. 94. (b) 1789, ch. 13, sec. 35. (c) 1788, ch. 67, sec. 130, 132. † Amended in 1797, pa. 3. (d) 1748, ch. 4.

Court, as without, and you shall not take any fee, gift, or gratuity, for any thing to be done by virtue of your office; and you shall not direct, or cause to be directed, any warrant by you to be made, to the parties; but you shall direct them to the Sheriff or other Officer of the Commonwealth, or other indifferent person, to do execution there-of. So help you GOD

Oath of a justice in chancery.

The oath of a Justice of the County or Corporation Courts in Chancery:
YOU shall swear that well and truly you will serve the Commonwealth in the office of a Justice in the County (or Corporation) Court of _____, in Chancery, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to equity and good conscience, and the Laws and usages of the Commonwealth of Virginia, without favor, affection, or partiality. So help you GOD.

Penalty for acting without qualifying.

And if any person whatsoever shall presume to execute the office of a Justice of the Peace, or Magistrate of a County or Corporation Court, without first qualifying himself in the manner by this Act before required, he shall for every such offence, forfeit and pay one thousand dollars, one moiety to the use of the Commonwealth, and the other moiety to the informer; to be recovered by action of debt, in any Court of Record in this Commonwealth. *a*

Courts may be adjourned from day to day for six days.

III. IF the business of any of the said Courts cannot be determined on the Court day, the Justices may adjourn from day to day not exceeding six days, until all causes and controversies then depending before them, shall be heard and determined, or otherwise continued in the manner hereinafter directed. *b*

How to be adjourned when the justices do not attend.

IV. IF a sufficient number of Justices should not attend to form a Court on the first day of any Court, or any subsequent day thereof, it shall and may be lawful for any one Justice to adjourn the Court from day to day, for the space of three days; and if there shall not be a sufficient number convened at four o'clock in the afternoon of the fourth day, all causes, matters and things therein depending, shall stand continued to the next succeeding Court. If from any cause the Court shall not sit on any day in a Term after it shall have been opened, there shall be no discontinuance, but so soon as the cause is removed, the Court shall proceed to business until the end of the Term, if the business depending before them be not sooner dispatched. No discontinuance shall take place in any case by reason of the Justices failing to make a Court, or to adjourn; but in such cases, all suits, process, matters and things depending, shall stand continued, and all returns and appearances, shall be made to the next succeeding Court in course, in the same manner as if such succeeding Court had been the same Court to which such process stood continued, or such returns or appearances should have been made. And all recognizances, bonds and obligations, for appearance, and all returns, shall be of the same force and validity for the appearance of any person or persons at such succeeding Court, as if the next succeeding Court had been expressly mentioned therein. And all causes depending upon the docket, and undetermined at any adjournment to the Court in course, shall stand continued in the same order to such Court, without any fee to the Clerk for the continuance of such as shall not then be called over. *c*

Suits not to be discontinued by the justices failing to hold a court.

Jurisdiction of the court

V. THE Justices of every such Court, or any four of them, as aforesaid, shall and may take cognizance of, and are hereby declared to have power, authority and jurisdiction, to hear and determine all causes whatsoever now depending, or which shall hereafter be brought in any of the said Courts, at the common Law, or in Chancery, within their respective Counties and Corporations, and all such other matters as by any particular statute, is or shall be made cognizable therein, except such criminal causes where the judgment upon conviction shall be for the loss of life or member, and except the prosecution of causes to outlawry against any person or persons, and except also all causes of less value than five dollars,† or two hundred pounds of tobacco, other than prosecutions on any penal Law of this Commonwealth; and also such cases as are by Law exclusively vested in any other tribunal. *d*

Certain causes excepted.

Causes determinable before one justice.

VI. WHEN the cause of action shall not exceed five dollars, or two hundred pounds of tobacco, the same is hereby declared to be cognizable, and finally determinable by any one Justice of the Peace, who may give judgment, and thereupon award execution against the goods and chattels of the Debtor, or party against whom such judgment shall be given, which shall be executed and returned, by the Sheriff or Constable to whom directed, in the same manner, as other writs of *feri facias*, are to be executed and returned, but no execution shall be by him granted against the body of the Defendant. *e*

But he may not issue execution against the defendant's body.

(a) 1748, ch. 4, sec. 2. (b) 1787, ch. 10. (c) 1748, ch. 4, sec. 24
† Encreased from 25s (d) 1748, ch. 4, sec. 5. (e) By act of Dec. Sess. 1800, ch. 38, the jurisdiction of justices is extended to ten dolls. or 400 lbs. tobacco.

VII. THE said Courts shall be held at the several respective places, at present assigned by Law for that purpose, or at such place or places, as shall be hereafter lawfully appointed, on the several days for holding Courts heretofore in such Counties or Corporations respectively appointed by Law, in the months of *March, May, August, and November*, in every year, except as herein after excepted, for the trial of all presentments, criminal prosecutions, suits at common Law and in Chancery, where the sum exceeds †twenty dollars, or eight hundred pounds of tobacco, now depending, or which hereafter shall be brought in any of the said Courts, and shall continue for the space of six days, unless the business be sooner determined; which Sessions of the said Courts shall be denominated the quarterly Sessions of such Courts respectively. *Provided always*, that in the Counties of *Montgomery, Washington, Russell, and Wytbe*, such Courts shall be held on the days now by Law respectively appointed for holding Courts in the months of *April, June, September, and November*; and in the Counties of *Henry and Cumberland*, in the months of *February, April, July, and October*; and in the Counties of *Norfolk, Princess Anne, Northampton, Nansemond, Stafford, Spotsylvania, Fairfax, Loudoun, Prince William, Berkeley, and Ohio*, and in the Borough of *Norfolk*, in the months of *March, June, August, and November*; and in the County of *Pendleton*, in the months of *April, June, September, and December*; and in the County of *Hampshire*, in the months of *March, May, September, and November*, in every year; and in the Counties of *King George and Frederick*, in the month of *June*, annually, instead of the month of *May*. *a*

Quarterly sessions,

VIII. A MONTHLY Session of the said Courts shall be held in like manner, on the days heretofore by Law appointed for holding Courts in such Counties and Corporations respectively, in every month in which there shall not be a quarterly Session for the trial of petitions for small debts, or for trover and conversion, or detention of any thing not exceeding twenty dollars, or eight hundred pounds of tobacco, for proving and recording deeds and wills, and granting certificates of *probat* and administration, and for the transaction of all business, which by Law is or shall be made cognizable in a County or Corporation Court, except such as has been herein assigned to the Court of quarterly Sessions. *Provided nevertheless*, that injunctions in Chancery may be granted or dissolved, judgments on attachments against absconding Debtors, where the property attached shall not be replevied, entered up, and all matters touching the breach of the Peace, and good behaviour, motions on replevy bonds, and against Sheriffs and other public Officers and Defaulters, may be heard and determined either at a monthly or quarterly Court. *b*

Monthly sessions.

IX. ALL original process to bring any person or persons to answer in any action or suit, indictment or information in the said Courts, and all subsequent process thereon, all process in Chancery awarded by the said Court, and all other writs of what nature soever, shall be issued and bear teste by the Clerk of such Courts respectively, and made returnable to the first day of the next succeeding quarterly Term; except *subpœnas* of injunction, attachments, petitions and *subpœnas* for witnesses, which shall be returnable to the next succeeding Court, be the same monthly or quarterly, as the case may require. *b*

Concurrent jurisdiction of monthly and quarterly courts.

Method of issuing and returning process.

X. SPECIAL bail may be taken in Court at the quarterly Sessions, or at the monthly Courts. *b*

Special bail, may be taken in court.

XI. THE County and Corporation Courts, at their quarterly Sessions, shall have similar jurisdiction with the High Court of Chancery, and shall proceed in the same manner against the estate and effects of persons residing out of this State, or absconding to avoid being served with the process of the said Court; and may hear and determine all *caveats* against grants for lands lying within the jurisdiction of the said Courts respectively.

Proceedings against absent defendants, as in the High Court of Chancery.

May hear and determine caveats against grants for land.

XII. ALL writs of execution upon judgments obtained in the quarterly or monthly Courts, and all executions and other process to enforce any decree in Chancery, obtained in either of the said Courts, may be made returnable to the first day of a quarterly or monthly Court, provided there be not less than fifteen, nor more than ninety days between the teste and return of such execution or process. *b*

Executions, when returnable.

(a) 1787, ch. 10. † Formerly £. 5. 1788, ch. 40. 1789, ch. 51. 1790, ch. 51, 55. 1788, ch. 22. (b) 1787, ch. 10. amended. 1787, ch. 10.

Courthouses and other public buildings shall be erected and kept in repair.

Penalty for failing to keep a sufficient prison, &c.

Public jail in Williamsburg to be used as the jail thereof, and of James City county.

Prison rules to be assigned.

Ducking-stool may be provided.

Process to be executed three days before return day.

When returnable, if issued within three days before the next court day. If issued or returnable in any other manner to be void.

XIII. FROM time to time, forever hereafter, the Court of every County and Corporation within this Commonwealth, shall cause to be erected and kept in repair, (or where the same shall be already built, shall maintain and keep in good repair) within each respective County and Corporation, and at the charge of such County or Corporation, one good and convenient Court-house of stone, brick, or timber, and one common Jail and County Prison, well secured with iron bars, bolts, and locks, and also one Pillory, Whipping-Post, and Stocks; and where land shall not be already provided and appropriated for that purpose, such Court may purchase two acres, whereon to erect the said public buildings, for the use of their County or Corporation, and for no other use whatsoever. And to every Court-house, already built and established, two acres of the land, built upon and adjacent thereto, not having any house, orchard, or other immediate convenience thereon, shall be and remain appropriated to such Court-house, and the fee-simple thereof, is hereby declared to be in the Court of the same County, and their successors, to the use of such County as aforesaid; but where a Court-house is already built in any City or Town, the Land now laid off for the same, and the other public buildings, shall be judged and held to be sufficient. And if the Justices of any County or Corporation Court, shall at any time hereafter fail to keep and maintain a good and sufficient Prison, Pillory, and Stocks, every Member of the Court, so failing, shall forfeit and pay ten dollars, one moiety to the Commonwealth, the other moiety to the Informer; to be recovered with costs, by action of debt or information, in any Court of Record of this Commonwealth. And moreover, the Court so failing, shall be liable to the action of the Sheriff, from time to time, for all damages recovered against him, upon any escape for want of a sufficient Prison; and such Sheriff or his Executors, or Administrators, shall and may sue for the same by action of debt or information, brought in the General Court against the Justices so failing, or the survivors of them, and upon recovery in such suit, the Judges of the said Court, are hereby empowered and required to proportion how much every particular Justice of the Court so failing, who shall be then living, and the Executors or Administrators of such as shall be deceased, shall pay respectively, and to enter up judgment accordingly, whereupon one or more executions shall and may be issued. *a*

XIV. ALL persons taken on civil or criminal process in the County of James City, may be committed to the public Jail in the City of Williamsburg, in like manner as if the same was within the limits of the said County; and the City of Williamsburg shall have a right to use the public Jail therein, as the Jail of the said City, and the District Jailor therein shall act as keeper of the Jail of the said City. *b*

XV. THE Justices of every County and Corporation, shall be, and they are hereby empowered and required, to mark and lay out the Bounds and Rules of their respective County and Corporation Prisons, not exceeding ten acres of land, adjoining to such Prison, which Marks and Bounds shall be recorded, and renewed from time to time, as occasion shall require; and every prisoner not committed for treason or felony, giving good security to keep within the said Rules, shall have liberty to walk therein, out of the Prison for the preservation of his or her health, and keeping continually within the said Bounds, shall be adjudged in Law a true prisoner. *c*

XVI. AND if the Court of any County or Corporation, shall at any time think fit, they are hereby authorized and empowered, at the charge of their County or Corporation, to cause a Ducking-Stool to be built in such convenient place as they shall direct. *c*

XVII. ALL process issuing from such Courts to bring any person to answer in any suit in such Courts, shall be executed three days at least before the day therein mentioned for the return thereof; and if any process shall be delivered to the Sheriff or Officer so late that he cannot execute the same three days before the return day, such process shall not be executed, but the Officer shall return the truth of the case. And if any original process be taken out within three days before the next Court day, such process shall be returnable to the next Court after the said three days, and not otherwise; and all process issued or returnable, in other manner than is herein before directed, shall be null and void. *Provided nevertheless*, that any Justice or Justices of Peace, by his or

(a) 1748, ch. 4, sec. 30. (b) 1784, ch. 18. 1791, ch. 25, sec. 1.
 c) 1748, ch. 4, sec. 31.

their warrant, may cause any traitor, felon, pirate, rioter, breaker of the peace, or other criminal offender, to be apprehended and brought before the same, or some other Justice or Justices, or before the next Court, although there be not three days between the execution of such warrant and the return thereof. *a*

Criminal cases excepted.

XVIII. IN all actions or suits which may be commenced against the Governor of this Commonwealth, any Member of the Privy Council, any of the Judges of the Superior Courts, or the Sheriff of any County, during his continuance in office, instead of the ordinary process, a summons shall issue to the Sheriff, or other proper Officer, reciting the cause of action, and summoning such Defendant to appear and answer the same, on the proper return day, in the next Court; and if such Defendant, being summoned, or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, the Court shall proceed against such Defendant, in the same manner as if he had been taken upon a *capias ad respondendum*. *Provided always*, that after judgment and the return of a *feri facias* by the Sheriff of that County in which the Defendant in any such case resides, that no effects, or not sufficient are to be found in his bailiwick to satisfy the said judgment, a *capias ad satisfaciendum* may be issued, as in other cases. *b*

Process in suits against the Governor, Councilors, Judges and Sheriffs.

XIX. IN all actions to recover the penalty for breach of any penal Law, not particularly directing special bail to be given, in actions of slander, trespass, assault and battery, actions on the case for trover, or other wrongs, and all personal actions, except such as shall be herein after particularly mentioned, the Plaintiff or his Attorney, shall, on pain of having his suit dismissed with costs, indorse on the original writ, or subsequent process, the true species of action, that the Sheriff to whom the same is directed, may be thereby informed whether bail is to be demanded on the execution thereof; and in the cases before mentioned, the Sheriff may take the engagement of an Attorney practicing in the County Court, indorsed on the writ that he will appear for the Defendant or Defendants, and such appearance shall be entered with the Clerk in the office on the first day after the end of the Court to which such process is returnable. And although no such engagement of an Attorney shall be offered to the Sheriff, he shall nevertheless be restrained from committing the Defendant to prison, or detaining him in his custody for want of appearance bail; but the Sheriff in such case shall return the writ executed, and if the Defendant shall fail to appear thereto, there shall be the like proceeding against him only, as is herein after directed against Defendants and their appearance bail, where such is taken. *Provided always*, that any Justice of the Peace, in actions of trespass, assault and battery, trover, and conversion, and in actions on the case, where, upon proper affidavit, or affirmation, it shall appear to him proper that the Defendant or Defendants should give appearance bail, may, and he is hereby authorized to direct such bail to be taken by indorsement on the original writ, or subsequent process; and every Sheriff shall govern himself accordingly.

In certain suits plaintiff to indorse on the writ the true species of action.

In which the sheriff may take the engagement of an attorney to appear for defendant; but shall not commit him for want thereof, or of bail.

Any justice may direct bail to be taken.

XX. IN all actions of debt founded upon any writing obligatory, bill, or note in writing, for the payment of money or tobacco, all actions of covenant or detinue, in which cases the true species of action shall be indorsed on the writ, as before directed, and that appearance bail is to be required, the Sheriff shall return on the writ, the name of the bail by him taken,* and a copy of the bail-bond to the Clerk's office before the day of appearance; and if the Defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the Court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery, as the Defendant might or would be subject to, if he had appeared and given special bail; and in actions of detinue the bail-piece shall be so changed, as to subject the bail to the restitution of the thing, whether animate or inanimate, sued for, or the alternative value, as the Court may adjudge.

Directions to the sheriff where bail is required.

When bail may defend the suit.

How bail is to be given in detinue.

XXI. AND if the Sheriff or other Officer shall not return bail, and the copy of the bail bond, or the bail returned shall be adjudged insufficient by the Court, and the Defendant shall fail to appear and give special bail, if ruled thereto, in such case the Sheriff or other Officer may have like liberty of defence, and shall be subject to the same recovery as is provided in the case of appear-

Remedy against sheriff neglecting to return sufficient bail.

(a) 1748, c. 4, sec. 13, 14. (b) 1788, c. 67, sec. 25. * Formerly the Sheriff was only required to return the names of the bail.

Exceptions to bail when to be made.

Defendants upon appearance may be ruled to give special bail.

No bail to be demanded of a resident in one county who is sued in another, until a return of non est inventus.

Proviso.

Any justice may take recognizance of special bail.

Exception to bail, how to be made.

The same proceedings against bail and sheriffs as in the District Courts.

Rules to be held monthly in clerk's office. Rule days to be appointed by the courts.

Rules to be given from month to month in the office; but may be set aside at the quarterly sessions.

Office judgments, when to be set aside.

ance bail. And if the Sheriff or other Officer depart this life before judgment be confirmed against him, in such case the judgment shall be confirmed against his Executors or Administrators, or if there shall not be a certificate of *probat* or administration granted, then it may be confirmed against his estate, and a writ of *fiat facias* may in either case be issued; but the Plaintiff shall object to the sufficiency of the bail during the sitting of the Court next succeeding that to which the writ is returnable, or in the office on the first or second rule day, and at no time thereafter. *a*

XXII. AND upon appearance of the Defendant in any personal action, where the Plaintiff shall move that the Defendant may be held to special bail, the Court may, if they see cause, rule him to give bail accordingly, or commit him in custody of the Sheriff or other Officer till such bail be given; and the person and persons becoming special bail, shall be liable to the judgment and recovery against such Defendant, unless he render his body in execution in discharge of his bail. *a*

XXIII. NO bail shall be demanded on a writ of *capias ad respondendum*, which shall be issued against a resident of one County in any other, until a *non est inventus* has been returned in the County or Corporation in which the Defendant resides, upon a *capias* issued in the same suit against such Defendant, and every writ issued contrary thereto without an indorsement of "no bail required," shall be voidable at any time before issue joined, or judgment by default, *nil dicit* or *non sum informatus* thereon, but not afterwards. *Provided*, that no such writ issuing from the County or Corporation in which the cause of action accrued, shall be voidable by reason of bail being required thereon. *b*

XXIV. ANY Justice of the Peace, when the Courts are not sitting, may take recognizance of special bail in any action therein depending, which shall be returned by the Justice taking the same to the Clerk of the Court, before the next succeeding quarterly Court, to be filed with the papers in such action. *c*

XXV. IF the Plaintiff or his Attorney shall except to the sufficiency of the bail so taken by a Justice out of Court, notice of such intended exception shall be given to the Defendant or his Attorney, at least five days previous to the day at which such exception shall be taken; and if such bail shall be adjudged insufficient by the Court, the recognizance thereof shall be discharged, and such proceedings shall be had, as if no such bail had been taken. *c*

XXVI. THE same proceedings shall be had against the common bail and Sheriff, or other Officer in any suit, or either of them, their Executors or Administrators, and they or either of them may have the same remedy against the Defendant, or his Executors or Administrators, in the County and Corporation Courts at their quarterly sessions, as is directed to be had in any District Court in such cases. *c*

XXVII. ALL imparlances to be taken, and pleadings to be filed, both in common Law and in Chancery, until an issue is joined, or interlocutory decree or judgment obtained, shall be done at rules to be held monthly in the Clerk's office, on such days as the Courts at their respective quarter Sessions, shall appoint; which rules shall be distinctly entered in a book, to be kept for that purpose, and the Clerk shall be allowed the same fees for entering such rules, as if the same had been made in Court. *c*

XXVIII. ALL rules to declare, plead, reply, rejoin, and for other proceedings, shall be given from month to month, and shall be made and entered with the Clerk of the Court, in the same manner as rules are made and entered with the Clerks of the District Courts, in suits depending in them. *Provided nevertheless*, That the Court may at their quarterly Session next after any of the said rules and proceedings have been had in the Clerk's office, for good cause to them shewn, set aside any of the said rules and proceedings, and make such order concerning the same, as to them may appear just and right. *c*

XXIX. WHERE any final judgment shall be entered up in the office against any Defendant or Defendants and their securities, or against any Defendant or Defendants and Sheriff or other Officer, by default, execution may issue thereon after the next succeeding quarterly Court, unless the same be set aside during such Court, in like manner as office judgments in the District Courts may be set aside; and all office judgments so set aside, shall be immediately put at the end of the issue docket.

(a) 1748, ch. 4, sec. 16, amended. (b) 1787, ch. 10, sec. 4. (c) 1787, ch. 10, sec. 2, amended.

XXX. ON writs of *scire facias* for renewal of judgments, no judgment shall be rendered on the return of two *nihils*, unless the Defendant reside in the County or Corporation, or unless he be absent from the Commonwealth, and have no known Attorney within the same. But such *scire facias* may be directed to the Sheriff or other Officer of any County or Corporation in this Commonwealth, wherein the Defendant or his Attorney shall reside, or be found; which being returned served, the Court may proceed to judgment thereon, as if the Defendant had resided in the County or Corporation.

Directions concerning writs of *scire facias* to revive judgments.

XXXI. THE Clerk shall proportion the causes upon the docket, from the first day of the Court to the sixth, both inclusive, if in his opinion so many days will be expended in trying the causes ready for trial, and issue *subpoenas* for witnesses to attend the days to which the causes stand for trial. He shall docket the causes in order as they are put to issue, and no cause shall be removed from its place on the docket, unless where the Plaintiff at the calling the same, be unprepared for trial, in which case, and no other, shall the cause be put at the end of the docket. *a*

Rules in docketing causes.

XXXII. AND for the better ascertaining what process may be sued out, where the Sheriff or other Officer returns that the Defendant is not to be found in his bailiwick: *It is hereby further enacted*, That where any Sheriff, or other Officer, shall make such return, the Plaintiff or Plaintiffs in any civil action, shall and may sue out an attachment against the estate of such Defendant, returnable as hereinbefore is directed for the returns of original and other subsequent process thereupon, to force an appearance, or an *alias* or *pluries capias*, at the election of the Plaintiff or Plaintiffs; and if the Sheriff or other Officer shall return any goods by him attached, the Plaintiff shall file his declaration, and be entitled to a judgment for his whole debt, and the goods so attached shall remain in custody of the Sheriff till such judgment obtained, and then be sold and disposed of, in the same manner as goods taken in execution upon a writ of *fiere facias*; and if the judgment shall not be satisfied by the goods attached, the Plaintiff may have an execution for the residue. *Provided always*, that all goods so attached, shall and may be replevied by the Defendant's giving bond and security to the Sheriff or other Officer attaching the same, in like manner as by Law is directed on the execution of mesne process, or by the Defendant's appearance, and putting in good bail, if ruled by the Court to give special bail. But no Sheriff shall return upon any writ to him directed, that the Defendant is not found in his bailiwick, unless such Sheriff or his Officer, shall have actually been at the dwelling-house, or place of abode of such Defendant, and not finding him shall have there left an attested copy of the same writ or process; and where any Defendant shall be a known inhabitant of another County, and not of the County of that Sheriff to whom the process shall be directed, such Sheriff shall return the truth of the case, but not that the person is not found in his County, and thereupon such process issued from any County Court Clerk's office, as to such Defendant, shall abate and be dismissed. *b*

Process where the defendant is not found.

When the sheriff may return that the defendant is not found.

XXXIII. THE Clerk of the Court shall carefully preserve the declarations, pleas, evidences, and all other papers relating to any cause in Court, and they shall be all filed together in the office.

Declarations, &c. to be preserved in the clerk's office.

XXXIV. IN all cases where the title or bounds of any estate in land is determined, the pleadings shall be all in writing, and shall be entered at large with the judgment thereupon, in particular books kept for that purpose only.

In land causes pleadings to be in writing and complete records to be made up.

XXXV. AND for preventing errors in entering the judgments of the Court, the Justices, before every adjournment, shall cause the minutes of their proceedings to be publicly read by the Clerk, and corrected where necessary, and then the same shall be signed by the first Justice in commission then sitting; which minutes so signed, shall be taken in a book, and carefully preserved among the records; and no proceedings or judgments of any Court, shall be of force, or valid, until the same be so read and signed.

Minutes of proceedings to be read in court and signed.

XXXVI. AND for prevention of delay and vexation, by dilatory pleas, *It is hereby further enacted and declared*, that in all personal actions, where the declaration shall plainly set forth sufficient matter of substance for the Court to proceed upon the merits of the cause, the suit shall not abate for want of form; and that where a plea in abatement shall be pleaded in any action, and upon argument the same shall be adjudged insufficient, the Plaintiff or Plaintiffs in such action shall recover against the Defendant or Defendants full costs, to the time

Suits shall not abate for want of form.

Costs upon a plea in abatement over-ruled.

(c) 1787, ch. 10. (b) 1748, ch. 4, sec. 18. ch. 6, sec. 5. 1748, ch. 4, sec. 19.

Method of recovering debts by petition.

of overruling such plea, including the costs of that Court, a Lawyer's fee only excepted. *a*

XXXVII. ANY debt or penalty, amounting to more than five⁺ dollars, or two hundred pounds of tobacco, and not exceeding twenty[†] dollars, or eight hundred pounds of tobacco, may be demanded by petition to the Court of a County, City, or Borough. The Clerk of the Court shall draw the petition, stating therein how the debt became due, or by breach of what Act of Assembly the penalty was incurred, and shall issue a summons directed to the Sheriff or other proper officer, commanding him to summon the Defendant to appear and answer the petition; and the Defendant being summoned ten days at least before the return day, and being at the same time served with a copy of the petition, together with a copy of the account which shall be filed, when the debt shall have arisen by account, the Court shall, and may hear and determine the matter in dispute in a summary way, and give such judgment as shall appear to be just. *b*

Detinue and trover for goods, or the value not exceeding twenty dollars shall be brought by petition.

XXXVIII. ANY person may, by petition, to be served and tried in like manner, demand and recover goods detained, or the value of them, and damages for the detention, or damages for goods found by the Defendant, and converted to his use, where the goods with the damages are not of greater value than twenty[§] dollars, or eight hundred pounds of tobacco. Whosoever shall bring any other action than a petition, if it appear, either by his own shewing in the declaration, or by the verdict of a Jury, that he might have brought a petition by this Act, shall be non-suit. *c*

Plaintiff proceeding otherwise shall be nonsuit.

XXXIX. AND be it further enacted, That in all suits in the County or Corporation Courts in Chancery, the following rules and methods shall be put in practice and observed, to wit: *d*

Rules to be observed in the prosecution of suits in chancery.

XL. THE Complainant shall file his bill on the first rule day after the return of the *subpoena* executed, or upon the first appearance of the Defendant, upon pain of having the same dismissed by the Defendant; and if he shall fail to file the same within three months from the time of such return, the suit shall stand dismissed with costs.

XLI. UPON the Complainant's dismissing his bill, or the Defendant's dismissing the same for want of prosecution, the Defendant shall recover his costs. *e*

XLII. THE Complainant may amend his bill before the Defendant appears, or in a small matter, afterwards, without paying costs; but if he amend after appearance, and in a material point, whereby the Defendant shall be put to any extraordinary costs, such costs shall be paid before the complainant shall be at liberty to amend his bill. *e*

XLIII. IF any Defendant shall not appear upon attachment returned executed, or being brought into Court upon any such process, shall obstinately refuse to answer the Complainant's bill, such bill shall be taken for confessed, and the matter thereof decreed accordingly. *e*

XLIV. THE Defendant shall file his answer at the next rules after his appearance, and bill filed, and if no answer be then put in, an attachment may be awarded, returnable to the next Court; and if no answer be put in upon return of the attachment executed, the Complainant's bill shall be taken for confessed, and the matter thereof decreed. *e*

XLV. AND if the attachment be returned not executed, an attachment with proclamation shall be issued, and if upon the return thereof no answer shall be put in, the Complainant's bill shall be taken for confessed, and the matter decreed as aforesaid. *e*

XLVI. NO process of contempt shall issue without oath made of the service of the *subpoena*, unless the same be returned served by a sworn Officer. *e*

XLVII. IF the Defendant does not file his answer within three months after the Plaintiff shall have filed his bill, having also been served with the *subpoena* at least three months before the said time for filing his answer, the Plaintiff may proceed to take his bill for confessed, and proceed in the same manner as in the case of an attachment returned executed, or he may have a general commission to take depositions, or he may move the Court to bring in the Defendant to answer interrogatories, at his election, and proceed on to hearing in the

(a) 1748, ch. 4, sec. 20. + Altered from 25^s. † Ditto £5. (b) 1786, ch. 62. § Altered from £5. (c) 1780, ch. 62. (d) 1748, ch. 4, sec. 25. 1787, ch. 2, sec. 2. (e) 1748, ch. 4, sec. 25.

two last cases, as if the answer had been filed, and the cause was at issue: *Provided*, that the Court for good cause shewn, may allow the answer to be filed, and grant a further day for such hearing. *a*

XLVIII. EVERY Defendant shall be at liberty to swear to his answer, before any Justice of the Peace. *b*

XLIX. WHEN any cross bill shall be preferred, the Defendant or Defendants in the first bill shall answer thereto, before the Defendant or Defendants in the second bill shall be compellable to put in his or their answer to such cross bill. *b*

L. THE Complainant shall reply or file exceptions, at the next rules after the Defendant's putting in his answer; and if the Complainant shall not then reply, nor file exceptions, his bill shall be dismissed with costs. *b*

LI. WHEN the Complainant files exceptions against the answer of any Defendant or Defendants, as insufficient, if the Defendant puts in a sufficient answer at the next rules, the same shall be received without costs, but if the Defendant's Attorney insists on the sufficiency of the answer put in, and neglects or refuses to put in a sufficient answer, or shall put in another insufficient answer, the Plaintiff may set down his exceptions, to be argued the next Court; and after exceptions so filed, or any second insufficient answer put in, no further or other answer shall be received, but upon payment of costs. *b*

LII. AND if upon argument, the Complainant's exceptions shall be over-ruled, or the Defendant's answer adjudged insufficient, the Complainant shall pay to the Defendant, or the Defendant to the Complainant, as the case shall be, such costs as shall be allowed by the Court. *b*

LIII. UPON every second answer adjudged insufficient, costs shall be doubled. If any Defendant shall put in a third insufficient answer, which shall be so adjudged, such Defendant shall be examined upon interrogatories, and committed till he shall perfectly answer those interrogatories, and pay costs. *b*

LIV. IF the Defendant after process of contempt, put in an insufficient answer, which shall be so adjudged, the Complainant shall not be obliged to take out a new *subpoena*, but may go on to the attachment with Proclamation, as if no answer had been put in. *b*

LV. WHERE the Complainant conceives sufficient matter to be confessed by the Defendant's answer, he may set down the cause for, and proceed to hearing. *b*

LVI. AFTER answer filed, and no plea in abatement to the jurisdiction of the Court, no exception for want of jurisdiction shall ever afterwards be made, nor shall the High Court of Chancery, or any other Court ever thereafter, delay or refuse justice, or reverse the proceedings for want of jurisdiction, except in cases of controversy respecting lands lying without the jurisdiction of such Court, and also of infants and *femes covert*. *c*

LVII. NO Defendant shall be admitted to put in a rejoinder, unless it be filed at the next rules after replication put in, but the Complainant may proceed to the examination of witnesses. *d*

LVIII. AFTER an attachment with Proclamation returned, no plea or demurrer shall be received, unless by order of Court upon motion.

LIX. IF the Complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may set it down to be argued; or if he thinks the plea good, but not true, he may take issue upon it, and proceed to proofs; and if such plea shall be adjudged false, the Complainant shall have the same advantage as if the same plea were found false by verdict at the common Law. *d*

LX. IF a plea be pleaded, or demurrer put in, and over-ruled, no other plea or demurrer shall thereafter be received, but the Defendant shall answer the allegations of the bill. *d*

LXI. THE Complainant at the next rules after a plea or demurrer put in, may cause the same to be set down to be argued; but if the Complainant shall not proceed to have the same set down, before the second Court after plea or demurrer put in, the bill may be dismissed of course, with costs. *d*

LXII. UPON a plea or demurrer argued and over-ruled, costs shall be paid as where an answer shall be adjudged insufficient, and the Defendant shall answer at the next rules; but if adjudged good, the Defendant shall have his costs.

(a) 1787, ch. 9, sec. 2. (b) 1748, ch. 4, sec. 25. (c) 1787, ch. 9, sec. 2.
(d) 1748, ch. 4, sec. 25. 1748, ch. 4.

LXIII. IF any Defendant shall obstinately insist on a demurrer, and refuse to answer, where the Court shall be of opinion that sufficient matter is alleged in the bill to oblige him to answer, and for the Court to proceed upon, the bill shall be taken for confessed, and the matter thereof decreed accordingly. *a*

Issues to be tried when necessary.

Right of appeal, how to be exercised.

When the plaintiff appeals, special bail bound to answer the judgment of the district court.

After issue joined no cause to be removed by certiorari or habeas corpus.

Rule respecting suits remanded.

Injunctions, how to be obtained.

Proceedings at common law shall conform to the practice of the district courts, and in chancery to that of the High Court of Chancery. Clerks shall issue executions on the application of any person obtaining judgment; and attachments against guardians, &c. failing to account.

Powers of Corporation courts not enlarged or abridged by this act.

What suits are cognizable therein.

LXIV. THE said Court in its discretion may direct an issue to be tried at their own bar whenever it shall be judged necessary.

LXV. THE right of appeal from the County and Corporation Courts to the High Court of Chancery, and to the District Courts, shall be exercised in the same manner as prescribed in the Acts "*Reducing into one the several Acts concerning the High Court of Chancery*, and, "*Reducing into one the several Acts concerning the establishment, jurisdiction, and powers of District Courts*."

LXVI. IF the Plaintiff or Demandant appeals, then the special bail given by the Defendant or Tenant in the County or Inferior Court, shall also stand bound to answer the judgment of the District Court, and such Appellant shall give bond with security, in the sum of sixty-three dollars and thirty-three cents, that he will prosecute his appeal with effect; and if he do not appear and prosecute the same, his bond shall be forfeited to the Defendant or Appellee. *a*

LXVII. NO writ or writs of *certiorari* shall be received or allowed by the Justices of any County Court or other Inferior Court, to whom any such writ or writs shall be directed and delivered, nor shall any cause be removed by *habeas corpus* after issue or demurrer joined, in the cause or causes depending in such Court or Courts, and intended to be removed by such writ or writs, but they shall and may proceed in the said cause or causes as though no such writ had been sued forth, or delivered to them or any of them; and if any cause be removed or stayed by such writ, and afterwards the same cause shall be remanded, or sent back again, by any writ of *procedendo*, or other writ whatsoever, such cause shall never afterwards be removed, or stayed before judgment, by any other writ or writs whatsoever, to be sued forth from either of the District Courts, or from the High Court of Chancery. *a*

LXVIII. BEFORE any injunction in Chancery shall be granted to stay proceedings at Law in any action, suit, or judgment whatsoever, in any County or Corporation Court, if the Court shall not be otherwise satisfied with the matter of equity, the party praying such injunction shall make oath before the Court, or before some Magistrate, of the truth of the allegations of his injunction-bill; which affidavit shall be certified at the foot of the bill, and he, she, or they, shall moreover enter into bond, with one or more sufficient securities, in the Clerk's office, for satisfying and paying all such sums of money and tobacco, and costs, which shall be then due, or become due, to the Plaintiff or Plaintiffs, in the action, suit, or judgment, so to be stayed, and also for the payment of such costs as shall be awarded against him, her, or them, in case the injunction shall be dissolved; and the Clerk shall endorse on the *subpoena* that the bond is filed. *b*

LXIX. THE proceedings of the said Courts in common Law cases, shall as nearly as may be, conform to the practice in the District Courts. And in Chancery cases, the same shall conform to the practice of the High Court of Chancery in like cases, except in such cases as are or shall be otherwise particularly directed by any Act of the General Assembly.

LXX. THE Clerks of the several County and Corporation Courts in this Commonwealth shall be, and they are hereby empowered and required, upon the application of any party who hath obtained, or shall obtain any judgment, decree or final order in such Courts, to issue any legal or proper writ of execution or attachment as the case may require, as also to issue attachments against Executors, Administrators, or Guardians, who shall fail to account when ordered so to do by such Court, directed to the Sheriff of the same, or any other County, provided there be fifteen days at least, and not more than ninety days, between the teste and return of such writ. *c*

LXXI. NOTHING in this Act before contained, shall be construed to enlarge, alter or abridge any of the powers, jurisdictions, or constitutions of any Court of any City, Town, Corporation, or Borough, within this Commonwealth, but the same shall remain as if this Act had not been made; any thing herein to the contrary, or seeming to the contrary notwithstanding. *Provided always*, That the respective Corporation Courts, or Courts of Hustings of any City,

(a) 1748, ch. 4, sec. 25, 28. (b) 1748, ch. 5, sec. 9. (c) 1772, ch. 5, sec. 1.

Town, or Borough, shall have jurisdiction only in suits or controversies instituted between the respective inhabitants or citizens of such City, Town, or Borough, and between one or more of the inhabitants of such City, Town, or Borough, and any person or persons not an inhabitant or inhabitants of this Commonwealth, and in either case only where the contract hath been made, or the cause of action hath accrued, within such City, Town, or Borough; and in all such suits and controversies, their respective jurisdictions shall not be limited to any particular sum, but shall be co-extensive with the jurisdiction of the County Courts. *a*

LXXII. NOTHING in this Act before contained, shall be construed to prejudice, or in any manner affect the charters of the City of *Williamsburg* and Borough of *Norfolk*, or either of them. *a*

LXXIII. NO person being a Member of any Corporation Court, Court of Hustings, or Common-Councilman of any City, Town, or Borough whatsoever, within this Commonwealth, except Common-Councilmen of the City of *Williamsburg*, or Borough of *Norfolk*, shall, while a Member of such Corporation Court, Court of Hustings, or Common-Council, be capable of acting as a Justice of any County Court. *a*

LXXIV. THE Clerks of the several County and Corporation Courts, shall annually, on or before the first day of *July*, transmit to the Auditor a list of all fines imposed by their respective Courts within the next preceding year; and if no fine shall have been imposed within such period, the Clerk shall certify accordingly. Every Clerk failing to perform the aforesaid duty, shall forfeit and pay one hundred and fifty dollars, to be recovered by the Auditor, on motion to the General Court, and applied to the use of the Commonwealth, provided ten days previous notice be given in writing of every such motion. *b*

LXXV. ALL and every Act, clause and parts of Acts, within the purview of this Act, shall be, and the same are hereby repealed.

LXXVI. THIS Act shall commence and be in force, from and after the first day of *May*, one thousand seven hundred and ninety-three.

Charters of *Williamsburg* and *Norfolk* not to be affected by this act.

Magistrates of corporations and common-councilmen not to act as justices of any county. Exception.

Lists of fines imposed by the courts to be sent to the auditor.

Former acts repealed.

Commencement of this act.

CHAP. LXVIII.

*An Act reducing into one, the several Acts concerning the Adjournment and Places of Session of certain Courts in certain Cases.**

[Passed the 17th of October, 1792.]

I. **B**E it enacted by the General Assembly, That so often as it shall appear necessary, it shall be lawful for the Governor, with the advice of the Council of State, by a Proclamation, bearing date one month at least before the first day of meeting, and dispersed throughout the several Counties, to cause the Court of Appeals, the High Court of Chancery, and the General Court, to meet at any convenient place within this Commonwealth, there to hold their respective Sessions immediately succeeding each Proclamation. If it shall so happen that the cause of adjournment shall occur within the space of a month next preceding the day of meeting, it shall be lawful for the Governor, with the advice of the Council of State, by a Proclamation dispersed as aforesaid, to postpone the time of meeting beyond the day, taking care that one month at least shall intervene between the date thereof, and such new day, and that the new day does not fall within the month next preceding the stated term. *c*

II. IF after a Session begun, a majority of the Judges of the aforesaid Courts who are present, shall be of opinion, and so record, that they cannot sit with safety at the place fixed by Law, or the Proclamation aforesaid, it shall be lawful for them to adjourn to the succeeding Term; and thereupon all business shall stand continued over.

III. COPIES of any Proclamation of adjournment shall be sent under signature of the Governor, and Seal of the Commonwealth, to each of the Judges aforesaid, whose Court may be so adjourned.

IV. THERE shall be no discontinuance in any proceeding whatsoever, if the Courts aforesaid, or either of them, should not be holden in their usual terms.

V. IT shall in like manner be lawful for the Executive, whensoever any building or buildings duly appointed for the holding of any Court shall be destroyed, by Proclamation to direct such Court to be holden in any other build-

Governor and Council may by proclamation change the place of holding the courts of appeals, and chancery, & the general court, and the time of their meeting.

Judges may adjourn if they think they cannot sit with safety.

Copies of the proclamations to be sent to the judges.

No discontinuance if courts not held in usual terms.

Executive may direct courts to be held in other buildings, when

(a) 1787, ch. 97, sec. 2, 3, 1. 1788, ch. 76. (b) 1787, ch. 40, sec. 15.
* Does not extend to District Courts. qu. See sec. 5. (c) May, 1781, ch. 1.

those erected for the purpose are destroyed. Proviso.

Repealing clause.

Commencement of this act.

ing or buildings, until the building or buildings so destroyed shall be re-built. *Provided always*, that the Court of Appeals, High Court of Chancery, and General Court, shall continue to be holden in such case, in the City of *Richmond*; the District Courts in the Counties in which they are appointed to be holden by Law; and the County and Corporation Courts within their respective Counties and Jurisdictions *a*

VI. ALL and every Act and parts of Acts, within the purview of this Act, shall be, and the same are hereby repealed.

VII. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXIX.

An Act to reduce into one, the several Acts declaring who shall be Conservators of the Peace within this Commonwealth.

[Passed the 17th of October, 1792.]

Who shall be conservators of the peace.

May demand of persons of evil fame, security of their good behaviour.

Repealing clause.

Commencement of this act.

I. **B**E it enacted by the General Assembly, That the Judges of the Court of Appeals, High Court of Chancery, and General Court, shall be Conservators of the Peace throughout the Commonwealth; and the Justices of the Peace in each County and Corporation shall be Conservators of the Peace within their several Counties and Corporations, respectively; and the said Judges and Justices within the limits aforesaid, respectively, shall have power to demand of such persons as are not of good fame, sufficient surety and mainprize of their good behaviour. *b*

II. EVERY Act, clause, and part of any Act, within the purview of this Act, shall be, and the same is hereby repealed.

III. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXX.

An Act to reduce into one, all Acts and Parts of Acts respecting County and Corporation Clerks.

[Passed the 2d of November, 1792.]

Clerks of county and other inferior courts, how qualified.

Penalty for acting without qualifying.

How punished for making false entries or altering records.

Party injured, how to be relieved.

Bond and security to be given by clerks when appointed. Condition.

I. **B**E it enacted by the General Assembly, That every person hereafter admitted into office by any County or other Inferior Court, as Clerk or Deputy-Clerk of such Court, shall at the time of his admission, or appointment to such office, take the following oath:

I, A. B. do swear that I will well and truly exercise the office of *ac-*
corling to the best of my skill and judgment, making due entries and record of all
orders, judgments, decrees, opinions or proceedings of the Court, and carefully filing
and preserving in my office, all books and papers whatsoever, which shall be deliver-
ed me in charge, or otherwise come to my hands or possession by virtue of my said of-
fice; and that I will not wittingly or willingly commit any malfeasance of office,
but in all things and at all times keep my said office free and accessible to every per-
son having a right or claim to business therein, and faithfully execute the duties there-
of, without favor, affection, or partiality. So help me GOD.

And if any person shall presume to execute the office of Clerk or Deputy Clerk of any County, or other Inferior Court, without taking such oath, he shall forfeit and pay fifteen hundred dollars, and suffer one year's imprisonment without bail or mainprize. *c*

II. IF any Clerk shall wittingly make any false entry, or rase, alter or change any record in his keeping belonging to his office, every such Clerk so offending shall be amerced and imprisoned at the discretion of a Jury; and shall moreover be liable to the action of the party grieved. And if any judgment be reversed, by reason of any such false entry, rasure, alteration, or change, the party grieved may sue by writ of error, or otherwise according to Law, if he see it expedient for him. *d*

III. EVERY Clerk of a County or other Inferior Court shall, at the time of his appointment and qualification as aforesaid, enter into bond, with security, to be approved of by the Court, in the penalty of three thousand dollars, payable to the Governor and his successors, for the time being, with condition for

(a) 1788, ch. 73. (b) 1789, ch. 30, sec. 16. (c) Oct. 1784, ch. 60, sec. 2.
(d) Stat. 8. R. 2, ch. 4.

the due and faithful execution of his office, and that he will not remove or carry, or suffer to be carried or removed out of the County or Corporation, the records and papers of the Court whereof he is Clerk, or any part thereof, except in cases allowed by Law; which bond shall by such Clerk be transmitted within three months to the Clerk of the Court of the District in which the said County or Corporation may be, to be by him registered and preserved among the papers of his office, and may be prosecuted upon against any such Clerk and his securities, in the name of the Governor, or his successors, for the use of any person or persons who shall or may be injured, at his, her, or their costs and charges, who shall and may recover all damages which he, she, or they may have sustained by reason of the breach of the condition of the said bond; and such bond shall not become void upon the first recovery, or if judgment shall be given against any Plaintiff or Plaintiffs who shall sue on such bond, but may be put in suit and prosecuted from time to time, for the benefit of at the proper costs and charges of any party injured, until the whole sum of three thousand dollars, the penalty expressed in such bond, shall be recovered; and such Clerk failing to transmit such bond to the Clerk of the said District Court for the time being, within the term aforesaid, shall forfeit and pay three hundred dollars, or presuming to execute his office without entering into such bond, shall forfeit and pay six hundred dollars, and suffer three months imprisonment. *a*

To be transmitted to the clerks of the District courts.

Penalty on clerks for failure.

IV. IT shall not be lawful for the Court of any County or Corporation, or the Clerk of any such Court, to remove, or cause to be removed, the records and papers of the same, or any part thereof, without the County or Corporation, except in cases of actual invasion or insurrection, where in the opinion of the Court the same will be endangered, or where for want of such opinion, occasioned by the suddenness of the alarm or danger, the Clerk shall at his own discretion remove the same, returning them as soon as the alarm or danger ceases, or except also in other cases heretofore provided for by Law; any Member of a Court, or Clerk of the same, offending herein, shall forfeit and pay six hundred dollars. *b*

Records of County courts not to be removed out of the county, except in invasions or insurrections.

V. EVERY Clerk appointed since the fourth day of June, one thousand seven hundred and seventy-six, shall reside within the County or Corporation in which he shall hold his office; and every Clerk of a County or Corporation Court, shall keep his office at the Court-house of the County in which he resides, or at such other convenient place, as the Court of the County or Corporation may direct, under penalty of being incapacitated therefrom, by information in the General Court. *Provided always*, that the Clerks of County and Corporation Courts may keep their several offices at any place within their respective Counties or Corporations, until otherwise directed by their Courts as aforesaid, and until an office built with brick and covered with tile, lead, or slate, with so much land as the Court shall judge necessary thereunto appurtenant, shall be provided for the use of the said Clerks and their successors, at the expense of their Counties or Corporations respectively, to be assessed in their levies. *b*

Clerks appointed since June 1776, to reside in their counties.

Where the clerks of county courts shall keep their offices.

VI. ALL the penalties by this Act imposed, shall be prosecuted for, and recovered by bill, plaint, or information, in any Court of Record, one moiety to the use of the Informer, and the other moiety to the use of the Commonwealth. *b*

Penalties how to be recovered.

VII. THE Clerks of the several Courts aforesaid, shall respectively, on or before the first day of April, and first day of October, in every year, account for on oath, and pay into the Public Treasury, all the monies which by an Act, intituled, "*An Act to reduce into one, the several Acts concerning the public Revenue*," they are authorized to receive, after a deduction of five per centum therefrom, as a commission for the service thereby imposed, and in case of fraud herein by any Clerk, he shall, on conviction thereof, be deprived of his office. *c*

When the clerks are to account for the public monies received by them.

Punishment in case of fraud therein.

VIII. WHENSOEVER the Court of any County or Corporation within this Commonwealth shall be so divided in the appointment of a Clerk, that neither of the Candidates shall be elected, the High Sheriff of such County, or the presiding Magistrate of such Corporation Court, shall decide in favor of one of those Candidates, between whom the Court shall be divided. *d*

How a clerk is to be appointed when the court is equally divided.

IX. THE Justices of the several County and Corporation Courts, shall annually appoint two or more fit persons of their number, to inspect the Clerk's office of their County or Corporation, and to report to the next Court, the condition in which they find the Papers and Records. *e*

Clerks offices to be annually inspected.

+ By former law directed to be transmitted to Clerk of Council. Much altered from former law. (a) 1784, ch. 60, sec. 3. (b) 1784, ch. 60, sec. 4, 5. (c) 1784, ch. 47, sec. 4. (d) 1787, ch. 23, sec. 1, 2. A little amended. (e) 1745, ch. 1, sec. 14.

Clerks to keep lists of executions in books, and constantly carry them to their court.

Repealing clause.
Proviso.

Commencement of this act.

X. THE Clerk of every County or Corporation Court, shall enter in a docket or book to be kept by him for that purpose, a list of all executions by him issued, the name of the person to whom delivered, and what return is made thereon, in case the same be returned, and shall constantly carry the said book to his Court. *a*

XI. ALL and every Act and Acts, or parts of Acts, within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

XII. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXXI.

An Act concerning Counsel and Attornies at Law.†

[Passed the 19th of November, 1792.]

Method of obtaining a license.

I. **F**OR prescribing the mode of licensing Counsel and Attornies at Law, and regulating their practice, *Be it enacted by the General Assembly*, That before any person shall be licensed to practise as Counsel or Attorney at Law, in any of the Courts of this Commonwealth, he shall produce to those authorised hereby to grant licenses, a certificate from the Court of that County, where he hath usually resided for the last preceding twelve months, that he is a person of honest demeanor, and is upwards of twenty-one years of age; and three of the Judges of the Superior Courts upon such certificates being produced to them, may, and they are hereby authorised and empowered, to grant to the person producing the same, a license under their hands and seals, to practise the Law in the Superior and Inferior Courts of this Commonwealth, if after examination they shall be of opinion that he is duly qualified. *b*

Counsel and attornies, how qualified.

II. EVERY Counsel and Attorney before he shall be permitted to practise in any of the Courts of this Commonwealth, shall first produce his license in each Court where he intends to practise, and in the presence of such Court shall give assurance of fidelity to the Commonwealth, and shall moreover take the following oath of office, to wit:

I, A. B. do solemnly swear, that I will honestly demean myself in the Practice of the Law, as Counsel or Attorney, and will in all respects execute my office, according to the best of my knowledge and abilities. *b*

Penalty for practising without qualifying.

If any person shall presume to practise as Counsel or Attorney in any of the said Courts without a license first obtained as aforesaid, or without qualifying himself in such Court in the manner before directed, he shall for every such offence forfeit and pay the sum of one hundred and fifty dollars for every cause he shall prosecute or defend in any of the said Courts; one moiety to the use of the Informer, the other moiety to the use of the Commonwealth, to be recovered by action of debt in any Court of Record. *c*

Who incapable of obtaining a license or practising.

III. EVERY person that hath already been, or shall hereafter be convicted of any felonious crime, shall be incapable of obtaining such license, or if licensed, the Judges of any Court, in which such person may practise, on proof thereof being made to them, may supersede his license. *c*

Licenses of Counsel and Attornies may be suspended or vacated for mal-practices.

IV. IF the Judges of the General Court, either in the General Court or District Courts, from their own observation, detect any mal-practice in either of the said Courts, in any Counsel or Attorney of those Courts, or either of them, or if a complaint in writing be made to them of such mal-practice in the said Courts, or in the Court of any County or Corporation, the party accused shall be summoned to shew cause why an information should not be filed against him. And if such information should be ordered, and the Counsel or Attorney thus offending, should be found guilty of the matter therein charged, the said Judges either in the General Court or District Courts, as the case may happen, may either suspend his license, during a certain time, or vacate it altogether, as they shall judge most proper. The Judges of the Court of Ap-

(a) 1764, ch. 6, sec. 11. + By act of 1799, ch. 23, attornies prosecuting on behalf of Commonwealth, to be appointed by the courts. (b) 1786, ch. 56. (c) 1761, ch. 3, sec. 3, 4.

peals, and of the High Court of Chancery, shall have the like power, over Counsel and Attornies practising at the bars of their respective Courts, and in case an information should be directed by the Judges of either of the said Courts, they may cause a Jury to be impannelled to try such information, in like manner as informations are tried in the General Court, or in the District Courts. *Provided always*, That nothing herein contained shall be construed to hinder the Justices of any County Court, or other Inferior Courts, from causing any Attorney practising in such Courts to find security for his good behaviour, or fining such Counsel or Attornies for misdemeanor, or contempts offered to them, in the same manner as if this Act had never been made. *a*

Power of County Courts over Attornies practising therein.

V. NO Counsel or Attorney who shall prosecute any suit in an Inferior Court, in which an appeal may be prayed, shall be permitted to appear, or prosecute such appeal in any Superior Court, to which the same may be carried or removed; and any Counsel or Attorney who shall appear to, or prosecute such appeal in any Superior Court, shall forfeit the sum of sixty dollars, to be recovered with costs by action of debt in any Court of Record within this Commonwealth. The whole penalty shall be appropriated to him, who will sue for and recover the same. *b*

Appellants Attorney in the Inferior Court, not to prosecute the appeal under penalty.

VI. IF any suit shall be dismissed for the non-attendance of an Attorney practising either in the Superior or Inferior Courts, not having a just and reasonable excuse, it shall be at his costs, and he shall moreover be liable for all damages his client shall sustain by such dismissal, or any other neglect of his duty, to be recovered in any Court of Record within this Commonwealth. *c*

Attornies to pay costs of suits dismissed for their non-attendance, and liable to pay for damages.

VII. AND every Attorney receiving money for his Client, and refusing to pay the same when demanded, shall be proceeded against in a summary way, on notice before any Court of Record, in the same manner as Sheriffs are liable to be proceeded against for money received on executions. *c*

May be proceeded against in a summary way for money received for their clients.

VIII. IN all cases where the Sheriff is authorized by Law to take the engagement of an Attorney indorsed upon the writ, that he such Attorney will appear for the Defendant or Defendants, every Attorney thus entering into such engagement, who shall fail to enter an appearance agreeable thereto, shall forfeit to the Defendant or Defendants eight dollars, for which judgment shall be immediately entered, and execution may issue thereon. *d*

Penalty on Attornies engaging to appear for defendants and failing.

IX. THE Judges of the General Court, of the District Courts, and the Justices of the County or other Inferior Courts, shall not suffer in suits hereafter to be commenced, more than two Attornies to argue on any one side, except in criminal cases, unless good cause be shewn for departing from this regulation. *e*

Only two Attornies of a side.

Exception.

X. IF any Attorney or other person practising as an Attorney, shall presume to appear under any Power of Attorney made before action brought, for confessing or suffering judgment to pass by default or otherwise, for any Defendant in any Court of Record within this Commonwealth, such Attorney shall for every such offence forfeit and pay fifteen hundred dollars to such Defendant, for his own use, to be recovered with costs, by action of debt or information in any Court of Record, and moreover shall be liable to an action for damages at the suit of the party grieved. *f*

Power of Attorney to confess judgment before suit brought, void.

XI. NO Justice of Peace, Sheriff, Under-Sheriff, or Clerk of any County Court, shall appear or plead as Attorney for any person or persons whatsoever, in the Court of the County whereof he is a Member, Officer, or Clerk, except only as general Attorney for any person or persons not residing or being within this Commonwealth, under penalty of being fined by such Court in the sum of thirty dollars for every such offence, to the use of the same County towards lessening the levy thereof. *g*

No Justice or officer to appear as Attorney in the court whereof he is a member or officer.

Exception.

XII. THE Lawyers in this Commonwealth shall not demand, nor directly or indirectly, or by any device, way or means whatsoever, take or receive before the suit or suits they are or shall be employed in, shall be finally determined, any greater or other fees or rewards for the following services, than what are herein particularly mentioned and expressed, that is to say: Lawyers practising in the General Court may demand and receive for an opinion or advice, where no suit is, or shall be brought and prosecuted or defended, by the Attorney giving such advice, but not otherwise, three dollars and fifty-eight cents; and in any suit other than where the title or bounds of land shall or may come

Lawyer's fees.

In the General Court.

(a) 1786, ch. 56. 1761, ch. 3, sec. 7. (b) 1788, ch. 50. (c) 1787, ch. 10.
(d) 1788, ch. 67, sec. 27. (e) From 1761, ch. 3, sec. 11. (f) 1748, ch. 5, sec. 7. (g) 1748, ch. 4, sec. 29.

In the High Court of
Chancery.

In the District Courts.

In the County Courts.

Not to recover more
than the legal fees.

Lawyer's fees to be tax-
ed in the bills of costs.

Repealing clause.

Commencement of this
Act.

in question, eight dollars and thirty-three cents; in those where the title or bounds of lands, shall or may come in question, sixteen dollars and sixty-six cents; in any suit in Chancery, the fee last mentioned; in any suit in a District Court, where the title or bounds of land shall or may come in question, five dollars; and in all other cases two dollars and fifty cents, except in causes transferred from the General Court, in which the fee shall be the same as in the General Court. And Lawyers practicing in the County Courts, or other Inferior Courts, for services to be by them done in such Courts, may demand for an opinion or advice, where no suit is or shall be brought or prosecuted, or defended, by the Attorney giving such advice, but not otherwise, one dollar and sixty-seven cents; and in any suit at common Law, other than the actions hereafter mentioned, or by petition, two dollars and fifty cents; in all Chancery suits, or real, mixed, or personal actions, where the title or bounds of lands, shall or may come in question, five dollars; on a petition for a small debt, one dollar and twenty-five cents; and any Lawyer for attending a survey in the Country, for every day he shall attend, may demand three dollars and fifty-eight cents, which last mentioned fee may be taxed in the bill of costs. And every Lawyer exacting, taking, receiving, or demanding, any greater fee, or other reward, for any of the above services, before he has performed the said services, or finished the said suits, shall forfeit and pay one hundred and fifty dollars for every offence; one half to the Governor, for the time being, for the use of the Commonwealth, and the other half to the Informer, to be recovered by action of debt or information in any Court of Record within this Commonwealth. *a*

XIII. NO Lawyer in any suit to be brought for his fees or services, shall recover more than the fees above-mentioned, notwithstanding any agreement, contract, or obligation, made or entered into by the party against whom such suit shall be brought. *a*

XIV. THE Clerks of the High Court of Chancery and General Court respectively, shall tax in the bill of costs on all decrees obtained in the former, and on all judgments in the latter, in any action wherein the title or bounds of land shall or may come in question, a fee of sixteen dollars and sixty-six cents, and in all other cases in the said last mentioned Court, the Clerk shall tax a fee of eight dollars and thirty-three cents, where the party obtaining such decree or judgment employed a Lawyer, except against Executors or Administrators, or where the Plaintiff may not recover more costs than damages; and the Clerks of the respective District Courts, and County Courts, or other Inferior Courts, shall tax in the bill of costs in all judgments in any action where the title or bounds of land shall or may come in question, and on all Decrees in Chancery, either when the Plaintiff shall recover or be non-suited, or where his suit shall be dismissed, five dollars; and in all other actions or suits, except such as are brought by petition in the County or other Inferior Courts, two dollars and fifty cents, for an Attorney's fee, if the party employed one, except against Executors or Administrators, or where the Plaintiff may not recover more costs than damages; and except also such suits as have been transferred from the General Court to the District Courts, in which last mentioned suits the same fees shall be taxed as if they had been determined in the General Court. And in all suits by petition, the Clerks of the said County Courts, and other Inferior Courts, shall tax in the bill of costs, where an Attorney shall be employed, one dollar and twenty-five cents as an Attorney's fee, against the party who shall be cast, except against Executors or Administrators. *b*

XV. ALL and every Act and Acts, clause or clauses of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

XVI. THIS Act shall commence and be in force, from and after the passing thereof.

(*a*) 1761, ch. 3, sec. 11, 12. (*b*) Taken from 1764, ch. 15, sec. 3.

CHAP. LXXII.

An Act reducing into one Act, the several Acts directing the Manner of Proceeding in Cases of Impeachment.

[Passed the 18th of October, 1792.]

I. **B**E it enacted by the General Assembly, That the process against any person impeached by Resolution of the House of Delegates, shall be summons, attachment, and distress, bearing teste, the first of them, the day of emanation, and the others, the return day of the process preceding, and shall be issued and signed by the Clerk of that Court where such impeachment is, by the Constitution, directed to be tried, as soon as such impeachment shall be notified to him by the Attorney-General, or any other person or persons appointed by the House of Delegates to prosecute the same. *a*

Process in impeachments.

II. A COPY of the articles of impeachment shall be delivered to the party accused, whensoever he shall require it, and the Court shall from time to time make such rules for compelling him to answer, and bring the matter to issue speedily, as to them shall seem reasonable. *a*

Copy of the articles to be delivered to the party accused.

The court may hasten the issue and trial. None to be found guilty but by a jury.

III. NO person shall be found guilty on an impeachment, but by a Jury, for which purpose, as soon as any matter of fact shall be put in issue, the Clerk of such Court shall issue a *venire facias* to the Sheriffs of the Senatorial District, wherein the person accused resides, commanding them to summon in their Counties to the first day of the next succeeding Court, in proportions as nearly equal as possible, twenty-four Jurors qualified according to Law for the trial of other criminal cases, which process may be repeated by order of the Court as often as it shall be necessary. The prosecutor for the Commonwealth, and the person accused, shall in open Court, alternately strike one, until the number shall be reduced to twelve; which remaining twelve shall be a Jury, and shall try the impeachment, render a verdict, and proceed in the same manner as is prescribed in the case of an indictment in the District Courts. The Jurors shall have the same allowance, and be subject to like penalties as in the case of veniremen, attending District Courts. If twenty-four Jurors should not appear, bystanders may be summoned to make up the deficiency. *b*

Jury, how to be summoned.

IV. THE party accused may have one or more Counsel without petitioning the said Court. *b*

Party accused may have counsel.

V. A PERSON impeached may for good cause, challenge a Juror either before or after the names shall be struck. *b*

May challenge jurors.

VI. NO impeachment shall be tried during the Session of the General Assembly, unless the party accused shall request it. *b*

No impeachment shall be tried during the Session of the Assembly. Persons found guilty on impeachments, how to be punished.

VII. A PERSON found guilty on impeachment, shall be either for ever disabled to hold any office under Government, or removed from such office, *pro tempore*, or subjected to such pains or penalties as any Act of the General Assembly may direct. *c*

VIII. ALL and every Act, within the purview of this Act, shall be, and the same are hereby repealed.

Repealing clause.

IX. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this Act.

CHAP. LXXIII.

An Act concerning Grand Juries, Petit Juries, and Venire-Men.†

[Passed the 29th of November, 1792.]

I. **F**OR the more regular enquiry into breaches of penal Laws, and trials of matters of fact in the several Courts of Justice within this Commonwealth, by Juries; *Be it enacted by the General Assembly*, That the Sheriff of each County, where a District Court is appointed to be holden, shall before every meeting of such Court, summon twenty-four of the most discreet Freeholders of the District, not being Ordinary Keepers, Constables,† Surveyors of Highways, or Occupiers of Mills, to appear at the succeeding District Court, on the first

Grand Juries to be summoned to every District Court.

(a) Constitution, art. 16, 17. 1788, ch. 67, sec. 128, 129, 130. *ib.* ch. 68, sec. 5, 6, 7. 1789, ch. 40. (b) 1788, ch. 68, sec. 5, 6, 7. (c) Const. art. 16. † See acts of 1795, ch. 10. ‡ By act of '95, pa. 16, sec. 3, Constables only disqualified in District and General Court.

Their duty.

By standers may be summoned if all the jurors do not attend.

Grand jurors to be summoned to every quarterly session of the County Courts.

Their duty.

Oath to be administered to the foreman of every Grand Jury.

To the other jurors.

Inhabitants of a corporate town not to act as grand jurymen of the county.

What offences may be presented by grand juries of county courts.

Method of prosecuting presentments in the county and district courts, where the penalties do not exceed certain sums.

Penalty on a person summoned as a grand juror and failing to attend.

Grand jurors privileged from arrests.

day thereof, which the said Sheriff is hereby empowered to do, as well without his County as within the same; and the said twenty-four Freeholders, or any sixteen of them, shall be a Grand Jury, who shall be sworn to enquire of and present all Treasons, Murders, Felonies, or other Misdemeanors whatsoever, which shall have been committed or done within the District, for which they are impannelled; and if a sufficient number of the said Freeholders should not attend on the first day of the Court, the Sheriff shall summon from the by-standing Freeholders, qualified according to Law, a sufficient number to form together with such of the first mentioned Freeholders as do attend, a Grand Jury. *a*

II. THE Sheriff of each County, and the Serjeants of the Cities of *Williamsburg*, *Richmond*, and Borough of *Norfolk*, and other Corporations within this Commonwealth, shall before every Quarter Session of the County or Corporation Courts, respectively summon twenty-four Freeholders of his County or Corporation, not being Ordinary Keepers, Constables, Surveyors of Highways, or Owners or Occupiers of a Mill, out of which number shall be impannelled a Grand Jury of sixteen at the least, who shall be sworn to enquire into the breach of penal Laws, and make presentment of the offenders; but shall present such offences and breaches only, as shall have been committed within the space of twelve months before the time of such presentment, unless the same be otherwise directed by Law; and such Grand Juries having presented all such matters as come to their knowledge, shall be discharged, always observing that when they make presentment, to write the name and surname of the Prosecutor or Informer, and the Town or County in which he shall reside, with his title or profession, under such presentment, for the more effectual prosecution thereof. *b*

III. AN oath in the following words, shall be administered to the foreman of a Grand Jury:

You, as foreman of this inquest, shall diligently enquire into, and true presentment make of all such matters and things as shall be given you in charge, or otherwise come to your knowledge, touching the present service; you shall present no person through malice, hatred or ill-will; nor shall you leave any unpresented through fear, favor, or affection, or for any reward, hope or promise hereof but in all your presentments, you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding. So help you GOD. c

The following Oath shall be administered to the other Jurors:

The same oath that . . . B your foreman hath now taken before you on his part, you and each of you shall well and truly observe and keep on your respective parts. So help you GOD.

IV. *PROVIDED*, That the Inhabitants of any Corporate Town, shall not be Grand Jurymen for the County in which such Corporate Town shall be.

V. *EVERY* such Grand Jury for a County or Corporation, shall and may present all offences made penal by the Laws of this Commonwealth, although the recovery of the fines for such offences shall be otherwise directed by the Laws inflicting the same; and although the forfeiture or penalty thereby inflicted, shall not amount to five dollars, or two hundred pounds of tobacco.

VI. *IN* a presentment to the County or Corporation Court, if the penalty of the offence exceed not five dollars, or three hundred pounds of tobacco, or to the District Court, if the penalty exceed not twenty dollars, or one thousand pounds of tobacco, no information thereupon shall be filed, but a summons shall be issued against the Defendant to answer the presentment, and such summons having been served upon him, or a copy thereof having been left at the place of his usual abode, where the prosecution shall be in the County or Corporation Court, at least ten days before the return day, if he do not appear, judgment shall be entered against him for the penalty, and if he do appear, the Court shall in a summary way, without a Jury, hear and determine the matter of the presentment, in the form in which it shall have been made, and give judgment thereupon according to Law, and the very right of the cause, disregarding any exception that may or might be taken to the form of the presentment. *d*

VII. *EVERY* Freeholder summoned to appear on a Grand Jury as aforesaid, and failing to attend, not having a reasonable excuse, shall be fined by the Courts respectively, not exceeding eight dollars, unless good cause be shewn to the contrary, at or before the next Court, to the use of the Commonwealth. *e*

VIII. *GRAND JURORS* shall be privileged from arrests in all cases, except Treason, Felony, and breaches of the Peace during their attendance at

(a) 22d George 2d, ch. 7, sec. 1. 1788, ch. 67, sec. 106. (b) 1790, ch. 64. 1795, ch. 8. (c) Oath of foreman altered by this act. (d) From 57 ch. of 1786. (e) Enacted from 22, Geo. 2, ch. 1, sec. 1, and 1788, ch. 67, sec. 108.

Court, coming to and returning from thence, allowing one day for every twenty miles from their places of abode, and all such arrests shall be void.

IX. NO Grand Jury shall make presentment of their own knowledge, upon information of fewer than two of their own body, nor in the District Courts where the penalty inflicted by Law is less than five dollars, or two hundred pounds of tobacco. *a*

X. IN case of the sickness, death, or non-attendance of any Grand Juror or Grand Jurors, after he or they shall be sworn, it shall be lawful for the Court to cause others to be sworn in his or their stead. *b*

XI. FOR the trial of all causes in the District Courts, and in the County and other Inferior Courts where a Jury may be necessary, the Sheriff or other Officer attending such Courts respectively, shall every day the Court sits, summon a sufficient number of by-standers, or others qualified as herein after is directed, to attend the Court that day, that out of them may be impanelled sufficient Juries for the trial of causes depending in such Courts; and if any person so summoned, shall fail to attend the Court accordingly, he shall be fined eight dollars, to the use of the Commonwealth. *c*

XII. NO person shall be capable to be of a Petit-Jury, for the trial of Treason, Felony, breach of the Peace, misprision of Treason, breach of a penal Law, or any other pleas of the Commonwealth, or of any estate of freehold, or estate or title in or to lands, tenements, or hereditaments, in any Court of Record in this Commonwealth, or to be a Juror in any cause whatsoever, depending in the District or any other of the Superior Courts of the Commonwealth, unless such person be a freeholder, and possessed of a visible estate, real or personal, of the value of three hundred dollars at the least. No person shall be capable to be of a Jury for the trial of any cause whatsoever, in any County Court or other Inferior Court, unless he be possessed of a visible estate, real or personal, of the value of one hundred and fifty dollars at the least. No person under the age of twenty-one years, shall serve as a Juror. No Sheriff or other Officer shall, at any time, summon or return any Juror, not qualified as this Act directs. *Provided always*, that no exceptions against any Juror, on account of his estate or age, or any other legal disability, shall be allowed after he is sworn. *c*

XIII. JURIES *de medietate linguæ* may be directed by the Courts respectively. *d*

XIV. JURORS knowing any thing relative to the point in issue shall disclose the same in open Court. *d*

XV. ANY Juror guilty of a contempt to the Court, may be fined by such Court in any sum not exceeding thirty dollars. *d*

XVI. NO Sheriff shall converse with a Juror, but by order of the Court, after the Jury have retired from the bar. *d*

XVII. IF any Sheriff shall fail to summon a Grand Jury, and return a panel of their names as herein directed, he shall forfeit and pay twenty dollars, for the use of the Commonwealth. *e*

XVIII. EVERY venire-man summoned and attending the District Court for the trial of any person charged with a criminal offence, shall have the same allowance for travelling and attendance, as is provided in the case of witnesses attending the said Courts, to be paid by the Public. If any person so summoned as a venire-man, shall fail to attend accordingly, not having a reasonable excuse, to be made at the time he should have appeared, or at the next District Court, every such person may be fined by the Court, not exceeding six dollars, to the use of the Commonwealth. *f*

XIX. IF any Juror upon any inquest whatsoever, shall take any thing by himself, or another, to give his verdict, and shall be thereof convicted, such Juror shall not thereafter be put on any Jury, and shall pay ten times as much, as he shall have taken; whereof one half shall go to him who will sue for the same, and the other half to the Commonwealth. *g*

XX. THE Sheriff of the County of *James City* for the time being, and his Under-Sheriffs and Deputies, and every of them, shall be, and are hereby empowered and authorised, to summon Jurors of the inhabitants of *James City* County, in all and every part of the City of *Williamsburg*, as well in that part

Rules in making presentments.

Others may be sworn in the room of grand jurors failing to attend after they are sworn.

Officer to summon jurors at every court.

Fine, if they fail to attend.

Qualifications of jurors.

In the Superior Courts.

In county courts.

Infants not to serve as jurors.

Jurors shall not be challenged after they are sworn.

Juries *de medietate linguæ*.

Jurors how to give evidence.

How punished for contempt.

When the sheriff may converse with them.

Penalty on sheriff for failing to summon a grand jury.

Allowance to venire-men.

Penalty on them for failing to attend.

Penalty on a juror taking any thing for giving his verdict.

Who may be summoned as jurors in *James City* county.

(a) 22 Geo. 2d, ch. 7, sec. 4. 1788, ch. 67, sec. 107. (b) 1788, ch. 67, sec. 106. (c) Enacted from 22 Geo. 2, ch. 7, sec. 5, 6. (d) 1788, ch. 67, sec. 44, 45, 46, 48. (e) 22, Geo. 2, ch. 7, sec. 1. (f) 1788, ch. 67, sec. 103, 104. (g) 1789, ch. 26, sec. 3.

Repealing clause.

Commentement of this Act.

lying in the County of *York*, as *James City*, to serve on Juries on the days appointed for holding Courts in the said County of *James City*. *a*

XXI. ALL and every Act and Acts, clauses and parts of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

XXII. THIS Act shall commence in force, from and after the passing thereof.

CHAP. LXXIV.

An Act directing the Method of proceeding against free Persons charged with certain Crimes; declaring the Mode of proceeding on Indictments, Informations, and Prosecutions on Penal Statutes; and for preventing vexatious and malicious Prosecutions, and moderating Amercements.

[Passed the 13th of November, 1792.]

Free persons charged with criminal offences, how, and by whom to be committed.

Examining court, how to be summoned, and what its powers.

How criminals shall be conveyed to the District Jails.

When bailable before a justice of the peace, or a judge of the General Court.

I. **BE** it enacted by the General Assembly, That when any person, not being a slave, shall be charged before a Justice of the Peace, with any criminal offence, which in the opinion of such Justice ought to be examined into by the County or Corporation Court, the said Justice shall take the recognizance of all material witnesses to appear before such County or Corporation Court, and immediately by his warrant commit the person so charged to the County or Corporation Jail, and moreover shall issue his warrant to the Sheriff of the County or Serjeant of the Corporation, requiring him to summon the Justices of the County or Corporation, to meet at their Court-house on a certain day, not less than five, nor more than ten days after the date thereof, to hold a Court for the examination of the fact, which Court shall consider, whether, as the case may appear to them, the prisoner may be discharged from further prosecution, may be tried in the County or Corporation, or must be tried in the District Court.* If they shall be of opinion, that the fact may be tried in the County or Corporation, the prisoner shall be bound over to the next Grand-Jury, to be held for that County or Corporation, then to be tried, or, upon refusing to give sufficient bail, shall be remanded to the County or Corporation Jail, there to remain until such Court, or until he or she shall be bailed. If they shall be of opinion that the prisoner ought to be tried in the District Court, they shall take the depositions of witnesses, and bind such as they shall think proper, by recognizance to appear and give evidence against such criminal at his or her trial, and having remanded the prisoner to Jail, any two of the Justices by warrant under their hands and seals, shall direct the Sheriff or his Deputy, or Serjeant, to remove the prisoner, and commit him or her to the District Jail, there to be safely kept until he or she shall be discharged by due course of Law; by virtue of which warrant, the Sheriff or his Deputy, or Serjeant, as soon as may be, shall remove the prisoner, and deliver him or her with the warrant to the Keeper of the District Jail, who shall receive and keep him accordingly. And for enabling the Sheriff or his Deputy, or Serjeant, safely to convey and deliver such prisoner, the said two Justices, by their warrant, shall empower him, as well within his County as without, to impress such and so many men, horses, and boats, as shall be necessary for the guard and safe conveyance of the prisoner, proceeding therein as the Law may direct in cases of impressing on other occasions; and all persons are to pay due obedience to such warrant. *b*

II. IF such prisoner shall in the opinion of the Court be bailable by Law, they shall enter that opinion in their proceedings, and also the sums of money, in which he and his bail ought to be bound, and he or she shall not be removed within twenty days after the examining Court, but shall and may be admitted to bail, before any Justice of the same County or Corporation within that time, or at any time afterwards before any Judge of the General Court. When any prisoner shall be thus admitted to bail by any Judge of the General Court, the Judge shall transmit the recognizance to the Clerk of the District Court, and give a warrant for the deliverance of the prisoner; and the warrant being put into the hands of the Officer in whose custody the prisoner shall be, he shall thereupon be delivered, if he be detained for no other cause. *c*

(a) From 1748, ch. 6, sec. 18. * By act of 1799, ch. 58, an alteration made in manner of holding called Courts. (b) 1788, ch. 67, sec. 95. (c) 1786 ch. 57.

III. ANY two Judges of the General Court when it is not sitting, may admit to bail a prisoner when they shall think him or her entitled thereto, and grant a warrant for his deliverance, notwithstanding the Justices before whom the examination was, shall have been of a different opinion. *a*

When bailable before two Judges of the general court.

IV. WHEN the Justices shall have determined that a prisoner ought to be tried for an offence in the District Court, the Clerk of the Court where such examination shall be had, shall issue a *venire facias* to be directed to the Sheriff or Serjeant, commanding him to cause twelve good and lawful men, freeholders of his County or Corporation, of the neighbourhood of the place where the fact shall have been committed, to come before the Judges of the District Court, at the time the witnesses shall be bound to appear there, which writ shall be executed by the said Sheriff or Serjeant, and the freeholders summoned by virtue thereof, or such of them as appear and be not challenged, together with so many other good and lawful men of the by-standers, being freeholders within this Commonwealth, as will make the number twelve, or if the whole array be challenged, twelve of such by-standers shall be a lawful Jury for the trial of the prisoner. No Justice of the Peace, or Member of a Corporation Court, who shall have committed any person for examination by the Court of his County or Corporation, or shall have been a Member of the examining Court, shall be sworn on the Petit-Jury impanelled for the trial of such person. *a*

Juries how formed.

No Justice committing a criminal or sitting on the examining court to be sworn on the Petit Jury.

V. AFTER any person shall be indicted of Treason, or Felony, if he or she be not already in custody, the Sheriff shall be commanded to attach his or her body, by writ, or by precept which is called a *capias*, and if he return that the body is not found, another writ or precept of *capias*, shall be immediately made returnable forthwith, in which the Sheriff shall also be commanded to seize his or her chattels, and safely to keep them; and if he return that the body is not found, and the indicted cometh not, an exigent shall be awarded, and the chattels shall be sequestered; but if he or she come, and yield himself or herself, or if he or she be taken before the return of the fourth *capias*, the goods and chattels shall be saved to him or her, otherwise they shall go and be vested as by Law is herein-after directed. *a*

Process against persons not in custody, indicted of treason or felony.

VI. IN all trials for such offences, the prisoner shall have a copy of the indictment, and of the pannel of the Jurors, who are to try him or her, whensoever he or she shall require it before trial or sentence. *a*

Prisoner to have copy of the indictment and pannel.

VII. WHENSOEVER an Inquest be about to be taken in any Court, in which Inquest the Commonwealth is a party, if he who appears and sues in behalf of the Commonwealth, will challenge any of the Jurors, he shall assign a cause certain for his challenge, and the truth of such challenge shall be judged of by the Court; and if such challenge be sufficient, the Juror shall be rejected, or if insufficient, he shall be admitted, and in either case the Inquest shall be proceeded in. *b*

Jurors how challenged by the prosecutor for the Commonwealth.

VIII. NO person arraigned for Treason, shall be admitted to a peremptory challenge above the number of twenty-four, nor shall any person arraigned for Murder or Felony, be admitted to a peremptory challenge above the number of twenty. *b*

How many may be peremptorily challenged by the prisoner.

IX. WHEN the Grand Jury shall have presented to the District Court, a bill of indictment against any person charged with Treason or Felony, the Court shall cause the offender to be arraigned and tried the same Term, if he be in the custody of the Jailor, or if he be bailed and forth-coming agreeable to his recognizance, unless they see good cause to adjourn the trial to the next Term; and shall allow him Counsel to assist him at his trial if he desire it. *c*

Prisoners to be tried at the first term.

To be allowed counsel.

X. WHEN any prisoner committed for Treason or Felony, shall apply to the Court the first day of the Term, by petition or motion, and shall desire to be brought to his trial before the end of the Term, and shall not be indicted in that Term, unless it appear by affidavit that the witnesses against him cannot be produced in time, the Court shall set him at liberty, upon his giving bail in such penalty, as they shall think reasonable, to appear before them at a day to be appointed of the succeeding Term. Every person charged with such crime, who shall not be indicted before, or at the second Term after he shall have been committed, unless the attendance of the witnesses against him appears to have been prevented by himself, shall be discharged from his imprisonment, if he be

When they shall be bailed, or discharged if not tried.

detained for that cause only; and if he be not tried at or before the third Term after his examination before the Justices, he shall be forever discharged of the crime. *a*

Their witnesses, how to be summoned and paid for their attendance.

XI. IF a prisoner shall desire any witnesses to be summoned for him or her to appear, either at the examining Court, or on the trial at the District Court, the Clerk of the said Court, or of the County or Corporation Court, (as the case may be) shall issue *subpoenas* for such witnesses, who, being summoned, and attending, shall have the like allowance for travelling and attendance, and be subject to the same penalty for failing to attend, as is provided for witnesses in civil cases. *b*

A sentence of death not to be executed in less than thirty days.

XII. EXECUTION of a sentence of death shall not be done in less than thirty days after judgment shall have been given against the prisoner. *c*

Charges of prosecution, to be defrayed out of the prisoner's estate if convicted.

XIII. WHERE the prisoner shall be convicted, and hath estate sufficient to pay the charges of prosecution, the whole shall be paid out of such estate, and the public only made chargeable where there is no estate, or not sufficient to be found; and the Auditor is hereby directed to transmit to the Sheriff of the County where the estate of the said prisoner shall be, an account of the said expenses, and the Sheriff shall disburse and be accountable for the same as for public taxes. *d*

Expenses attending criminal prosecutions in the County courts, how to be liquidated and paid.

XIV. TO the end that a certain and adequate mode may be fixed by Law for the regular payment of the expenses attending the examination and trial of criminals in the County and other Inferior Courts, in all cases where such expenses ought to be paid by the public: *Be it enacted*, that the several County and Corporation Courts within this Commonwealth, having jurisdiction in such examinations and trials, shall annually, in the month of *September* or *October*, cause to be certified to the Auditor of Public Accounts, all claims for expenses accruing after the first day of *January*, one thousand seven hundred and eighty-eight, from the examination and trial of criminals, for guards and maintenance of criminals in their respective Counties and Corporations, for conveying them to the District Jails for further trial, and for imprisonments for misdemeanor or breach of the Peace, and all other charges properly chargeable to the public, together with the vouchers on which such claims have been allowed; and the Auditor is hereby authorized and required to liquidate and adjust the said claims, and to grant warrants on the Treasury to the respective claimants for the amount of their claims. *e*

Attendance of veniremen and witnesses in the District Courts, to be certified to the Auditor.

XV. THE Clerks of the District Courts shall enter in books to be kept for that purpose, the names of Jurors attending for the trial of prisoners, and the names of witnesses appearing on behalf of the Commonwealth or the prisoner, with accounts of the days they shall have attended, the ferries they shall have crossed, and the distances they shall have travelled on that occasion, and certify such entries to the Auditor of Public Accounts. *f*

Where offender to be examined and tried, when one feloniously stricken or poisoned in one County dies in another.

XVI. WHERE any person shall be feloniously stricken or poisoned in one County or Corporation, and shall die of the same stroke or poisoning in another County or Corporation, the offender shall be examined according to Law, by the Court of the County or Corporation where such stroke was given, or poison administered, and, and he shall be tried in the Court of the District in which such County or Corporation lies. *g*

Where accessories shall be examined and tried.

XVII. IN like manner an accessory to a Murder or Felony committed, shall be examined by the Court of that County or Corporation, and tried by the Court of that District in which he became accessory; and shall answer upon his arraignment, and receive such judgment, order, execution, pains, and penalties, as are used in other cases of Murder or Felony. *g*

Prisoner standing mute, or peremptorily challenging more jurors than he legally may, or outlawed, to be deemed convicted.

XVIII. WHENSOEVER in Treason or Felony any person shall stand mute on his arraignment, or persist, after being admonished by the Court in not answering to the indictment, or in peremptorily challenging above the number of Jurors which by Law he may be allowed to challenge peremptorily, or shall be outlawed, he shall be considered as convicted, and the same judgment, execution, and disabilities, shall take place and be awarded as if he had been convicted by verdict, or confession of the crime. *g*

(a) 1786, ch. 57. (b) 1788, ch. 67, sec. 101. (c) 1786, ch. 57. (d) 1788, ch. 67, sec. 112. (e) 1787, ch. 44, sec. 1. (f) From 1786, ch. 57. (g) 1789, ch. 50, sec. 6, 7, 10.

XIX. IF Treason or Felony be committed in a County or Corporation, different from that in which the Culprit shall be arrested, any Justice of that County or Corporation, in which he or she is arrested, may by his warrant cause the offender to be put into the custody of the Sheriff or Serjeant, to be by him conveyed to the County or Corporation where the offence was committed (and every Sheriff or Serjeant, while he shall officiate in execution of this Act, may impress so many men, horses, and boats, as may be necessary for the safeguard and conveyance of the offender into such other County or Corporation) and there brought before some Justice thereof, who shall proceed in like manner, as if the offender had been brought before him in the first instance; and the Sheriff or Serjeant for removing a criminal from one County or Corporation to another, shall be allowed the same fee *per mile* for such service as is allowed to Sheriffs for removing criminals from the County to the District Jail, to be paid in like manner as other expenses for criminal prosecutions. *a*

How criminals are to be conveyed to the Counties where the offences were committed.

XX. WHEN any person shall be removed to be tried for Treason or Felony, in the District Court, the Clerk of the Court for the County or Corporation from whence the prisoner is removed, shall immediately after the Court holden for his or her examination, transmit to the Attorney for the Commonwealth in the District Court, a copy of the warrant for his or her commitment, and of the depositions taken on the examination. *b*

Copy of depositions and of the warrant of commitment to be sent to the attorney for the Commonwealth in the District.

XXI. IN indictments in which the exigent shall be awarded in the names of the Defendants in such indictments, additions shall be made of their estate or degree, or mystery, and of the Counties of which they were or be, or in which they be or were conversant; and if on the process upon the said indictments in which the said additions be omitted, any out-lawries be pronounced, they shall be void, frustrate, and holden for none, and before the out-lawries be pronounced, the said indictments shall be abated by the exception of the party wherein the said additions be omitted. *c*

Additions of defendants estate or degree, &c. in indictments.

XXII. IN any inquisition or indictment, the words "force and arms," or any particular words descriptive of any particular kind of force and arms, shall not of necessity be put or comprised. *c*

Words "force & arms" in indictments, not essentially necessary.

XXIII. NO indictment for High Treason, misprision of Treason, Murder, or other Felony, or offence whatsoever, shall be quashed for the omission of the name of any Parish, Town, Ville or Hamlet, within any County of this Commonwealth, nor shall such omission after conviction on such indictment, be any cause to stay or arrest judgment, nor shall any judgment on such indictment be liable to be reversed on a writ of error by reason of such omission. *d*

No indictment to be quashed or judgment thereon reversed for omission of the name of any parish, town, &c.

XXIV. NO information for a trespass or misdemeanor, shall be filed in any Court but by express order of the Court, entered on Record, nor unless the party supposed to be culpable, shall have failed to appear and shew good cause to the contrary, having been required to do so by a summons, appointing a convenient time for that purpose, served upon him, or left at his usual place of abode; and the name and sur-name of the Prosecutor,† and the Town or County in which he shall reside, with his title or profession, shall be written at the foot of the information, before it be filed, and of every bill of indictment for any trespass or misdemeanor before it be presented to the Grand Jury. *e*

Rules respecting the filing of informations for trespasses or misdemeanors.

XXV. IF the Grand Jury to whom such a bill of indictment last mentioned, is preferred, shall not find the bill, or if the Defendant shall appear to shew cause against the filing such information, or to answer such information or indictment, and the Prosecutor shall not proceed further, or if the Defendant shall be found not guilty by the Petit-Jury, or a judgment shall be given for him, he shall recover his costs against the Prosecutor, with an Attorney's fee, if one was employed, and the allowances to witnesses to be taxed in the bill of costs, and may have execution for them, as the manner is in civil cases. *f*

When the defendant shall recover his costs thereon.

XXVI. IN every such information or indictment, the fine or amercement, which ought to be according to the degree of the fault and the estate of the Defendant, shall be assessed by twelve honest and lawful men, either those by whom the offender shall have been convicted, in case of a verdict, or those who shall be impannelled for that special purpose, where judgment shall be given

Fines to be assessed by Juries.

(a) From 1786, ch. 57. (b) 1788, ch. 67, sec. 102. (c) 1789, ch. 30, sec. 1, 5. (d) 1786, ch. 16, sec. 3. † By act of Dec. sess. 1801, pa. 15, ch. 18, no prosecutor to be required in such cases. (e) 1b. ch. 64. (f) 25, Geo. 2. ch. 5.

No fines to be imposed by sheriffs, &c. for default of common summons.

Process on presentments for offences not capital.

Penalty on private persons suffering criminals to escape.

None to seize the goods of criminals until they are forfeited.

Estates of persons convicted, attainted, or outlawed of treason, felony, &c. to descend & pass as if they had died intestate.

No attainder to work a corruption of blood.

Reservation of the rights of all persons other than the offenders.

Approvers in no case to be admitted.

Actions, &c. on penal laws, within what time to be commenced.

When special bail shall be requirable in such actions.

How suits may be brought for fines against Justices.

Penalties not exceeding 20 dollars or 800 lbs. tobacco, how recoverable.

Prosecutors for offences not capital, may be compelled to give security for costs.

Repealing clause.

against him upon the argument of a demurrer, or by his confession or default. *a*

XXVII. NO Escheator, Sheriff, Coroner, or other Inquisitor, shall hereafter have power of amercement for default of common summons; save only the Judges of the General and District Courts, or the respective County or Corporation Courts. *a*

XXVIII. UPON presentment made by the Grand-Jury of an offence not capital, the Court shall order the Clerk to issue a summons or other proper process against the person or persons so presented, to appear and answer such presentment at the next Court, and thereupon hear and determine the same according to Law. *b*

XXIX. IF any private person having any prisoner in his keeping, arrested for suspicion of Felony, Treason, or Murder, and the person that is so arrested, escape by negligent keeping, before that he be brought to the Jail, then the person from whom such prisoner so escaped, shall be liable to a fine on being found guilty on an indictment in the Court of that District in which such escape was made. *c*

XXX. NO Sheriff, Under-Sheriff, nor Escheator, nor any other person, shall take or seize the goods of any person accused or indicted of, or for, Treason, Murder, or other Felony, except only in such cases where he shall be commanded by the precept of *capias* herein before directed, to seize the chattels of a person not in custody, against whom an indictment for any such offence shall have been previously found, upon pain to forfeit double the value of the goods so taken, to him that is so hurt in that behalf, by action of debt, to be pursued in any Court of Record. *c*

XXXI. WHENSOEVER any person shall happen to be attainted, convicted, or out-lawed, of any Treason, Misprision of Treason, Murder, or Felony, whatsoever, there shall in no case be a forfeiture to the Commonwealth, of dower, or of lands, slaves, or personal estate, but the same shall descend and pass in like manner as is by Law directed in case of persons dying intestate; nor shall any attainder work a corruption of blood; any Law or usage to the contrary in any wise notwithstanding. *d*

XXXII. SAVING to all and every other person and persons, bodies politic and corporate, their heirs and successors, and to every of them (other than to such offender as shall be attainted, convicted, or out-lawed) all such right, title, interest, entry, leases, possession, condition, profit, commodity, and hereditaments, as they or any of them had, or should, or of right ought to have, before or at the time of the said attainder, conviction, or outlawry. *d*

XXXIII. APPROVERS shall never be admitted in any case whatsoever. *d*

XXXIV. ALL actions, suits, bills, indictments, or informations, which shall be had, brought, sued, or exhibited upon any penal Act of Assembly, not affecting life or limb, made or to be made, shall be had, brought, sued, or exhibited within one year next after the offence committed against such penal Act, and not after. *d*

XXXV. NO special bail shall be requirable in any suit brought upon a penal Law, unless by such Law, bail shall be expressly directed. *e*

XXXVI. IN all cases where a fine is laid upon the Justices of any County, one action may be brought against them all jointly. *f*

XXXVII. WHERE the penalty incurred by the breach of any penal Law shall not exceed twenty dollars, or eight hundred pounds of tobacco, the same may be sued for and recovered in the manner directed by Law for debts of like amount. *g*

XXXVIII: *AND be it further enacted*, That in all indictments for assaults and batteries, and other offences not capital, now depending or hereafter to be prosecuted, it shall be lawful for the Court before whom the same shall be depending, upon good cause to them shewn, to compel the Prosecutor to find security for payment of the costs, and if such Prosecutor shall fail to give security accordingly, the indictment shall be dismissed with costs.

XXXIX. ALL and every Act and Acts, clause and clauses of Acts, containing any thing within the purview of this Act (except as herein after pro-

(a) 1786, ch. 64. (b) 1788, ch. 67, sec. 109. (c) 1789, ch. 30, sec. 15, 12. 1786, ch. 57. (d) 1789, ch. 30, sec. 13, 14, 8, 9. (e) 22, Geo. 2, ch. 4, sec. 17. (f) 27, Geo. 2, ch. 1, sec. 24. (g) 1786, ch. 62. Amended.

vided) shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done, or claim which may have accrued, before the commencement of this Act.

Proviso.

XL. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this act.

CHAP. LXXV.

An Act declaring at what Time Restitution shall be made of Goods stolen.

[Passed the 22d of October, 1792.]

I. **BE** it declared and enacted by the General Assembly, That if any Felon or Felons do rob or take away any money, goods, or chattels, from any person within this Commonwealth, whether from their person or otherwise, and thereof the said Felon or Felons be afterwards convicted or attainted, that then the party so robbed, shall be restored to his said money, goods, or chattels; and the Court before whom such Felon shall be convicted or attainted, shall have power to award, from time to time, writs of restitution accordingly. *a*

Courts before whom felons are convicted, may award restitution of the goods stolen by them.

II. ALL and every Act and Acts, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed.

Repealing clause.

III. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. LXXVI.

An Act for Limitation of Actions; for preventing frivolous and vexatious Suits; concerning Jeofails, and certain Proceedings in Civil Cases.†

[Passed the 19th of December, 1792.]

I. **BE** it enacted by the General Assembly, That all writs of *formedon* in descender, remainder, or reverter of any lands, tenements, or hereditaments whatsoever, hereafter to be brought upon any title or cause heretofore accrued or which may hereafter fall or accrue, shall be sued out within twenty years next after such title or cause of action accrued, and not afterwards; and that no person or persons who now hath or have, or hereafter may have any right or title of entry into any lands, tenements, or hereditaments, shall make any entry but within twenty years next after such right or title accrued, and such person shall be barred from any entry afterwards. *b*

Limitations of real actions.

II. *PROVIDED nevertheless*, That if any person or persons entitled to such writ or writs, or to such right or title of entry as aforesaid, shall be, or were under the age of one and twenty years, *feme covert*, *non compos mentis*, imprisoned, or not within this Commonwealth at the time of such right or title accrued, or coming to them, every such person, and his or her heirs, shall and may, notwithstanding the said twenty years are, or shall be expired, bring and maintain his action, or make his entry, within ten years next after such disabilities removed, or the death of the person so disabled, and not afterwards. *b*

Exception.

III. IN all writs of right, and other actions possessory, any person may maintain a writ of right upon the possession or seizin of his ancestor or predecessor, within fifty years, or any other possessory action upon the possession or seizin of his or her ancestor or predecessor, within forty years, next before the teste of the writ; but no person shall maintain a real action upon his own possession or seizin, but within thirty years next before the teste of the writ. *b*

Rules in writs of right.

IV. ALL actions of trespass *quare clausum fregit*, all actions of trespass, detinue, action sur trover, and replevin for taking away of goods and chattels, all actions of account, and upon the case, other than such accounts as concern the trade of merchandise between merchant and merchant, their factors, or servants; all actions of debt, grounded upon any lending, or contract without specialty; all actions of debt for arrearages of rent; all actions of assault, menace, battery, wounding, and imprisonment, or any of them, which shall be sued or brought,

Limitation of personal actions, except accounts between merchants, &c. Case, account trespass quare, clausum fregit, debt, detinue, and replevin, to be brought within five years after

(a) Stat. 21, H. 8, ch. 11. + See acts of 1797, p. 45, ch. 93. (b) 22, Geo. 2, ch. 1, sec. 18, 19, 20.

the cause of action accrued.

Trespass, assault, battery, wounding and imprisonment, in three years.

Slander within one year.

Within what time the plaintiff must proceed on a judgment on which execution hath not issued; when it hath issued, but hath not been returned.

Proviso in favor of infants, *tenes covert*, persons non compos, imprisoned, or out of the state.

On store accounts within one year.

In store accounts the dates of the delivery of the articles to be specified. Penalty for post-dating such accounts.

Limitation to commence from the respective dates or delivery of the articles.

Verdict or judgment to be given only for what was delivered within the year.

Proviso within what time plaintiff may recommence his action where the judgment is arrested or reversed.

shall be commenced and sued within the time and limitation hereafter expressed, and not after, that is to say: The said actions upon the case, other than for slander, and the said actions for account, and the said actions for trespass, debt, detinue, and replevin for goods and chattels, and the said action of trespass *quare clausum fregit*, within five years next after the cause of such action, or suit, and not after; and the said actions of trespass, of assault, battery, wounding, imprisonment, or any of them, within three years next after the cause of such actions or suits, and not after; and the said action upon the case for words, within one year next after the words spoken, and not after. *a*

V. JUDGMENTS in any Court of Record within this Commonwealth, where execution hath not issued, may be revived by *scire facias*, or an action of debt brought thereon, within ten years next after the date of such judgment, and not after; or where execution hath issued and no return is made thereon, the party in whose favor the same was issued shall and may obtain other executions, or move against any Sheriff or other Officer, or his or their security, or securities, for not returning the same for the term of ten years from the date of such judgment, and not after.

VI. PROVIDED, That if any person or persons entitled to such judgment, where execution hath not issued, or where execution hath issued, and no return made (in either case) shall be, or were under the age of twenty one years, *feme covert*, *non compos mentis*, imprisoned, or not within this Commonwealth at the time of such judgment being awarded, whether execution hath issued thereon or not, every such person, his or her heirs, executors, or administrators, shall and may, notwithstanding the said ten years are or shall be expired, have the benefit of said judgment where no execution hath issued by reviving the same by *scire facias*, or by action of debt, and where execution hath issued and no return made, every such person or persons, his or her heirs, executors, or administrators, may have the benefit of other executions, or may move against any Sheriff or other Officer, or his or their security, or securities, for the same within five years after such disabilities removed, and not after.

VII. ALL actions or suits founded upon any account for goods, wares, and merchandise sold and delivered, or for any articles charged in any store account, shall be commenced and sued within one year next after the cause of such action or suit, or the delivery of such goods, wares, and merchandise, and not after; except that in case of the death of the creditors or debtors, before the expiration of the said term of one year, the further time of one year from the death of such creditor or debtor, shall be allowed for the commencement of any such action or suit. *b*

VIII. AND to prevent imposition or deception herein, the respective time or date of the delivery of the several articles charged in any such account, or any receipt taken for the delivery of them, shall be particularly specified. And if any merchant or trader shall wilfully post-date, any article or articles in such account, or the receipt taken for the delivery of them, he shall forfeit and pay ten-fold the amount of the article or articles, or of the receipt taken for the delivery of them, so post-dated, to be recovered with costs in any Court of Record, by petition, where the penalty incurred shall be under sixteen dollars and sixty-six cents, or amounts to that sum only, and by action of debt or information, where the penalty shall be more than sixteen dollars and sixty-six cents, to the Informer, where the Informer prosecutes, or to the Commonwealth, where the prosecution shall be first instituted on the Public behalf. *b*

IX. AND to prevent any doubt in the construction hereof, it is hereby declared, that the before mentioned limitation of one year, shall take place and be computed, from the respective dates or times of delivery of the several articles entered or charged in any such account; and that all such articles as shall have been of more than one year's standing when the action or suit was commenced, shall be disallowed and rejected, and verdict shall be given, or judgment rendered for no more than the amount of such articles as appear to have been actually charged or delivered within one year next before the commencement of the suit as aforesaid. *b*

X. PROVIDED *nevertheless*, That if in any of the said actions or suits, judgment be given for the Plaintiff, and the same be afterwards reversed by error, or a verdict pass for the Plaintiff, and upon matter alledged in arrest of judgment, the judgment be given against the Plaintiff, that he take nothing by

his plaint, writ or bill, in all such cases the party Plaintiff, his heirs, executors, or administrators (as the case shall require) may commence a new action or suit, from time to time within one year next after such judgment reversed, or such judgment given against the Plaintiff, and not after. *a*

XI. *PROVIDED* always, That in all questions which may arise in any Court of Record upon any Act for limitation of actions, making entries into lands, or limitation of evidence, in the computation of time, the several periods between the twelfth day of *April*, one thousand seven hundred and seventy-four, and the twelfth day of *April*, one thousand seven hundred and seventy-eight, and between the first day of *January*, one thousand seven hundred and eighty-one, and the fifth day of *January*, one thousand seven hundred and eighty-two, and between the fifth day of *May*, one thousand seven hundred and eighty-three, and the twentieth day of *October*, in the same year, shall not be accounted any part thereof, so as to bar such action, entry, or evidence. *b*

XII. *PROVIDED* also, That if any person or persons that is or shall be entitled to any such action of trespass, detinue, action sur trover, replevin, actions of account, actions of debt, actions of trespass, for assault, menace, battery, wounding, or imprisonment, be, or shall be, at the time of any such cause of action given or accrued, fallen or come, within the age of twenty-one years, *feme covert*, *non compos mentis*, imprisoned, beyond the seas, or out of the Country, that then such person or persons shall be at liberty to bring the same actions, so as they take the same within such times as are before limited after their coming to, or being of full age, discover, of sane memory, at large, and returned from beyond the seas, or from without this Country, as by other persons, having no such impediment, should be done. *c*

XIII. *PROVIDED* always, That all suits hereafter brought in the name or names of any person or persons residing beyond the seas, or out of this Country, for recovery of any debt due for goods actually sold and delivered here, by his or their factor or factors, shall be commenced and prosecuted within the time appointed and limited by this Act, for bringing the like suits, and not after, notwithstanding the saving herein before contained, to persons beyond the seas at the time their causes of action accrued. *Provided nevertheless*, that if any factor shall happen to die before the expiration of the time in which suit should have been brought, such principal shall be allowed two years from the death of such factor, to commence and prosecute his, her, or their action, for any debt due to him, her, or them, on account of any contract or dealing with such factor. *d*

XIV. *PROVIDED* also, That if any person or persons, defendant or defendants to any of the aforesaid actions, shall abscond or conceal themselves, or by removal out of the Country, or the County where he or they do or shall reside, when such cause of action accrued, or by any other indirect ways or means, defeat or obstruct any person or persons who have title thereto, from bringing or maintaining all, or any of the aforesaid actions within the respective times limited by this Act, that then and in such case, such defendant or defendants are not to be admitted to plead this Act in bar to any of the aforesaid actions; any thing in this Act in any wise to the contrary notwithstanding. *e*

XV. *PROVIDED* also, That this Act shall not extend to any action which shall be commenced against any Master or Commander of a Ship or Vessel, who shall discharge or cause to be put on shore any sick or disabled sailor belonging to his Ship or Vessel, or any servant, without taking due care for their maintenance and cure, or carrying any debtor, servant, or slave out of this Commonwealth contrary to Law. *f*

XVI. AND for the relief of the good people of this Commonwealth against causeless and vexatious suits, and for the better enabling them to recover their just rights; *Be it enacted*, that in all actions of assault and battery, and slander, commenced and prosecuted in any District Court, if the Jury find under the sum of sixteen dollars and sixty-six cents; and in the like actions commenced and prosecuted in any County Court, if the Jury find under six dollars and sixty-six cents, the plaintiff in either case, shall not recover any costs. *g*

XVII. AND in all actions of trespass, and all other personal actions, where the Court before whom the trial shall be, shall not be satisfied, and enter upon the

In the computation of time under the act of limitations, certain periods not to be accounted part thereof.

Infants, *femes covert*, persons *non compos*, imprisoned, beyond seas or out of the country, may bring suit within the time limited after such impediments removed;

Except persons out of the country bringing suits for goods sold by their factors.

Provide.

In what cases the defendants shall not have the benefit of this act.

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When the plaintiff shall not recover costs.

Where no more costs than damages.

(a) 4 Anne, ch. 8, sec. 2. (b) Oct. 1777, ch. 23, sec. 2. May 1781 ch. 9, sec. 2. Nov. 1781, ch. 12. May 1783, ch. 41. Oct. 1783, ch. 25. (c) 4 Anne, ch. 8, sec. 5. (d) 28 Geo. 2, ch. 2, sec. 7, 8, 9. (e) 4 Anne, ch. 8, sec. 6. (f) 1748, ch. 12, sec. 7. (g) 22 Geo. 2, ch. 5, sec. 1, 2.

Remedy where more costs shall be awarded. Where the defendant shall have his costs.

Exception as to executors or administrators.

In trespass quare clausum fregit, if the defendant pleads a disclaimer and involuntary trespass with tender of amends if it be found for the defendant, or the plaintiff be non-suited, he shall be barred.

Where a suit shall not abate by the death of either party.

Rules in actions for non-performance of covenants, &c.

record, that the freehold, title, or interest of land mentioned in the Plaintiff's declaration, was or might have been in question, or that the trespass was wilful or malicious, if the Jury find under six dollars and sixty-six cents, the Plaintiff shall not recover more costs than damages; and if more costs are awarded, the judgment shall be void, and shall be amended upon a motion at any time, by the Court who awarded the same, and the party injured shall be redressed, as to such costs so wrongfully awarded, in case the same be levied upon him. And where several persons shall be made Defendants in any action of trespass, assault, false imprisonment, or ejectment, and upon the trial thereof, any one or more of them shall be acquitted by verdict, every Defendant so acquitted shall have and recover his costs of suit in like manner as if a verdict had been given against the Plaintiff or Plaintiffs, and acquitted all the Defendants, unless the Court before whom such cause shall be tried, shall be satisfied that there was reasonable cause for making such person or persons Defendant or Defendants to such action, and shall order it otherwise; and in all cases where judgment shall be given for the Defendant, he shall recover his costs against the Plaintiff, and have execution for the same. *a*

XVIII. *PROVIDED always*, That nothing herein contained, shall be construed to extend to Executors or Administrators, in such cases where by the Law they are not liable to the payment of costs of suit. *a*

XIX. AND in all actions of trespass *quare clausum fregit*, hereafter to be brought, wherein the Defendant or Defendants shall disclaim, in his or their plea, to make any title or claim to the land in which the trespass is by the declaration supposed to be done, and the trespass be by negligence or involuntary, the Defendant or Defendants shall be admitted to plead a disclaimer, and that the trespass was by negligence or involuntary, and a tender or offer of sufficient amends for such trespass, before the action brought, whereupon, or upon some of them, the Plaintiff or Plaintiffs shall be enforced to join issue; and if the said issue be found for the Defendant or Defendants, or the Plaintiff or Plaintiffs shall be non-suited, the Plaintiff or Plaintiffs shall be clearly barred from the said action or actions, and all other suits concerning the same. *b*

XX. IN all actions where the Plaintiff shall die after an interlocutory judgment, and before final judgment obtained therein, such action shall not abate, if the same might be originally prosecuted or maintained by the Executors or Administrators of such Plaintiff; and if the Defendant die after such interlocutory judgment, and before final judgment, such action shall not abate, if the same were originally maintainable against the Executors or Administrators of such Defendant, but the Plaintiff (or, if he be dead, after such interlocutory judgment, his Executors or Administrators) shall and may have a *scire facias* against the Defendant, if living, after such interlocutory judgment, (or, if he died after, against his Executors or Administrators) to shew cause why damages in such action should not be assessed, and recovered by the Plaintiff or Plaintiffs; and if such Defendant, or his Executors or Administrators, shall appear at the return of such writ, and not shew or alledge any matters sufficient to arrest the final judgment, or being returned warned, or upon two writs of *scire facias*, it be returned, that the Defendant, or his Executors or Administrators, had nothing whereby to be summoned, or could not be found in the County, shall make default, a writ of enquiry of damages shall be thereupon awarded, which being executed, judgment final shall be given for the said Plaintiff, his Executors or Administrators prosecuting such writ or writs of *scire facias*, against such Defendant, his Executors or Administrators. And if there be two or more Plaintiffs or Defendants, and one or more of them should die, if the cause of action should survive to the surviving Plaintiff or Plaintiffs, or against the surviving Defendant or Defendants, the writ or action shall proceed, at the suit of the surviving Plaintiff or Plaintiffs, against the surviving Defendant or Defendants. And in all actions, real, personal and mixed, if either party should die between verdict and judgment, such death shall not be pleaded in abatement, but judgment shall be entered as if both parties were living. *c*

XXI. IN all actions upon any bond, or on any penal sum, for non-performance of covenants or agreements, in any indenture, deed or writing contained, the Plaintiff or Plaintiffs may assign as many breaches as he or they shall think fit; and the Jury, upon trial of such action or actions, shall and may assess damages for such of the breaches as the Plaintiff shall prove to have been broken.

(a) 22, Geo. 2, ch. 5, sec. 3, 4. (b) 4 Anne, ch. 8, sec. 3. (c) 22 Geo. 2, ch. 5, sec. 5.

and on such verdict the like judgment shall be entered as heretofore has been usually done in such actions. And where judgment on a demurrer, or by confession, or *nihil dicit*, shall be given for the Plaintiff, he may assign as many breaches of the covenants or agreements, as he shall think fit; upon which a Jury shall be summoned, to enquire of the truth of every one of those breaches, and to assess the damages the Plaintiff shall have sustained thereby, and execution shall issue for so much; and judgment shall remain as a security to the Plaintiff, his Executors and Administrators, for any other breaches which may afterwards happen, and he or they may have a *scire facias* against the Defendant, and assign any other breach, and thereupon damages shall be assessed, and execution issued as aforesaid. And in all actions which shall be brought upon any bond or bonds, for the payment of money, wherein the Plaintiff shall recover, judgment shall be entered for the penalty of such bond, to be discharged by payment of the principal and the interest due thereon, and the other costs of suit, and execution shall issue accordingly; or if before judgment the Defendant shall bring into Court the principal and interest due upon such bond, he shall be discharged, and in that case judgment shall be entered for the costs only. And in any action of debt on single bill, or in debt, or *scire facias* upon a judgment, or in debt upon bond, if before action brought, the Defendant hath paid the principal and interest due by the defeasance or condition, he may plead payment in bar. *a*

XXII. ALL powers of attorney for confessing or suffering judgment to pass by default or otherwise, and all general releases of error, made or to be made by any person or persons whatsoever within this Commonwealth, before action brought, shall be, and are hereby declared to be absolutely null and void. *a*

XXIII. EVERY action at common Law, or suit in equity, commenced in the name of a person not residing in *Virginia*, unless he be employed abroad in the service of the Commonwealth, or of the *United States of America*, shall be dismissed, if security be not given with the Clerk of the Court from whence the process shall issue, or wherein it shall be depending, within sixty days after notice, shall at any time during such non-residence, have been given to the demandant, or Plaintiff, or his Attorney, by some person interested, that such security is required for payment of the costs and damages which may be awarded to the Tenant or Defendant, and also of the fees which will become due to the Officers of the Court. *b* †

XXIV. ACTIONS of account shall and may be brought and maintained against the Executors or Administrators of every guardian, bailiff and receiver, and also by one Joint Tenant or Tenant in Common, his Executors or Administrators, against the other as bailiff, for receiving more than comes to his just share or proportion, and against the Executors or Administrators of such Joint Tenant, or Tenant in Common. *c*

XXV. PROCESS in all real actions, other than writs of right, shall be according to the course of the common Law, except that the returns shall be according to the Laws of this Commonwealth, but all essoins, views, and vouchers be, and are hereby taken away; and after one imparlance, unless the Tenant shall plead non-tenure, joint tenancy, or several tenancy, in abatement, and then, after such plea shall be over-ruled, he shall put himself upon the grand assize, and the mise shall be joined upon the mere right, and be tried at the next Court by twelve Jurors, to be summoned, tried, and sworn as in all other actions. And to remove all delays and groundless pretences in saving the default of the Tenant, no excuse shall be admitted but non-summons; and such excuse being allowed, he may imparle, and at the next Court, shall either plead in abatement, or put himself upon the grand assize, as aforesaid. *d*

XXVI. NO judgment after a verdict of twelve men, shall be stayed or reversed for any defect or default in the writ original, or judicial, or for a variance in the writ from the declaration or other proceedings; or for any mispleading, insufficient pleading, discontinuance, misjoining of the issue, or lack of a warrant of Attorney, or for the appearance of either party, being under the age of twenty-one years, by Attorney, if the verdict be for him and not to his prejudice; or for not alledging any deed, letters testamentary, or commission of administration, to be brought into Court; or for omission of the words "with force and arms," or "against the peace," or for mistake of the christian name, or surname of either party, sum of money, quantity of mer-

On bonds for payment of money.

In other actions of debt.

Powers of attorney for confessing judgments & releasing errors before suit brought, void.

Suits brought, by persons residing out of the state to be dismissed, if security be not given for the costs.

Actions of account may be brought against executors or administrators of guardians, bailiffs, and receivers, and by one joint tenant or tenant in common against the other. Process in real actions.

Judgments not to be reversed for certain defects in the process or pleadings.

(a) 22, Geo. 2, ch. 5, sec. 67. (b) 1786, ch. 64. † Acts of 1796, ch. 10, ch. 5, authorizes the clerk to demand of persons residing out of the state, security for his fees before services performed. (c) 22, Geo. 2, ch. 5, sec. 37. (d) 16, ch. 1, sec. 21.

chandize, day, month, or year, in the declaration or pleading, (the name, sum, quantity or time being right in any part of the Record or proceeding) or for omission of the averment, "this he is ready to verify," or, "this he is ready to verify by the Record," or for not alledging "as appeareth by the Record," or for omitting the averment of any matter, without proving which, the Jury ought not to have given such verdict, or for not alleaging that the suit or action is within the jurisdiction of the Court, or for any informality in entering up the judgment by the Clerk; neither shall any judgment entered upon confession, or by *nil dicit*, or *non sum informatus*, be reversed, nor a judgment after enquiry of damages be stayed or reversed for any omission or fault, which would not have been a good cause to stay or reverse the judgment if there had been a verdict. *a*

What defects to be regarded in case of demurrer.

XXVII. WHERE a demurrer shall be joined in any action, the Court shall not regard any other defect or imperfection in the writ, return, declaration or pleading, than what shall be specially alledged in the demurrer, as causes thereof, unless something so essential to the action or defence, as that judgment according to Law, and the very right of the cause cannot be given, shall be omitted. *a*

When a possession of part of lands shall not be deemed a possession of the whole.

XXVIII. IN controversies affecting lands, tenements, or hereditaments, possession of part shall not be construed a possession of the whole, when an actual adverse possession can be proved.

Actual possession not necessary to maintain a writ of right.

XXIX. ACTUAL possession need not be proved to maintain a writ of right.

Private Acts of Assembly may be given in evidence.

XXX. PRIVATE Acts of Assembly may be given in evidence without pleading them specially. *a*

Jury may take with them papers, though not under seal.

XXXI. PAPERS read in evidence, though not under seal, may be carried from the bar by the jury. *a*

Interpreters may be sworn.

XXXII. INTERPRETERS may be sworn truly to interpret when necessary. *a*

Rule respecting non-suits.

XXXIII. EVERY person desirous of suffering a non-suit on trial, shall be barred therefrom, unless he do so before the jury retire from the bar. *a*

How many new trials may be allowed.

XXXIV. NOT more than two new trials shall be granted to the same party in the same cause. *a*

Exceptions to declarations in ejectment when to be made.

XXXV. AFTER issue joined in an ejectment on the title only, no exception of form or substance shall be taken to the declaration in any Court whatsoever. *a*

Scrolls by way of seals valid.

XXXVI. ANY instrument to which the person making the same, shall affix a scroll by way of seal, shall be adjudged and holden to be of the same force and obligation as if it were actually sealed. *a*

What omissions in verdicts in detinue may be remedied, and how.

XXXVII. IF in detinue the verdict shall omit price or value, the Court may at any time award a writ of enquiry to ascertain the same. If on an issue concerning several things in one count in detinue, no verdict be found for part of them, it shall not be error, but the Plaintiff shall be barred of his title to the things omitted. *a*

Where one of several counts is faulty, and there are general damages, the verdict shall be good.

XXXVIII. WHERE there are several counts, one of which is faulty, and entire damages are given, the verdict shall be good; but the Defendant may apply to the Court, to instruct the jury to disregard such faulty count. *a*

Executions and other process duly served good, though not directed to any sheriff. Any judge of the General Court or justice may take special bail.

XXXIX. AN execution, writ, or other process appearing to be duly served in other respects, shall be deemed good, although it be not directed to any Sheriff. *b*

XL. ANY Judge of the General Court, when the District Court is not sitting, or any Justice of the Peace, may take recognizance of special bail, in any action depending in any Court of Record within this Commonwealth, which shall be transmitted by the person taking the same, before the next succeeding Court, to the Clerk of the said Court, to be filed with the papers in such action: The form of which recognizance shall be in the following words, to wit:

(a) 1789, ch. 28, sec. 1, 2, 3, 7, 9, 10, 11, 12, 13, 14, 15, 16. (b) 1788, ch. 67, sec. 7b.

" County, to wit: MEMORANDUM, That upon the day of , in the year , E. F. of the County of , personally appeared before me (one of the Judges of the General Court, or a Justice of the County aforesaid, as the case may be) and undertook for C. D. at the suit of A. B. in an action of now depending in the [naming the Court where the suit is depending] that in case the said C. D. shall be cast in the said suit, he the said C. D. will pay and satisfy the condemnation of the Court, or render his body to prison, in execution for the same, or that he the said E. F. will do it for him." a

Form of the recognizance of special bail.

XLII. THE person taking such bail as aforesaid, shall, if required, at the same time, deliver to the person or persons acknowledging the recognizance aforesaid, a bail piece, in the words and form following, to wit:

" County to wit: C. D. of the Parish of in the County aforesaid, is delivered to bail, on a cepi corpus unto E. F. of the Parish and County aforesaid, at the suit of A. B. the day of , in the year (a)

Bail piece.

XLIII. NOTICE on replevy bonds, and all other legal occasions, wherein no particular mode is, or shall be prescribed, shall be good, if given to the party in person, or delivered in writing to any free white person above the age of sixteen years, who shall be a member of the family of such person, and shall be informed of the purport of such notice, or left at some public place, at the dwelling-house, or other known place of residence of such person. b

How notices may be given where no particular mode is prescribed by Law.

XLIII. A JUDGMENT on confession, shall be equal to a release of errors. b

A judgment by confession on equal to a release of errors.

XLIV. THE laws of costs shall not be interpreted as penal laws. b

Laws of costs not to be interpreted as penal laws.

XLV. FOR removing all doubts concerning the Courts to which this act may apply, Be it further enacted, That all things herein contained, shall be the rules of decision and proceeding in all Courts whatsoever within this Commonwealth. b

Regulations in this act to be observed in all the Courts of this Commonwealth.

XLVI. ALL and every Act or Acts, and all parts of Acts containing any thing within the purview of this Act, shall be, and are hereby repealed.

Repealing clause.

XLVII. PROVIDED, That nothing herein contained shall be construed to extend to any contract entered into, or right which has accrued prior to the commencement of this Act, but the same shall remain in the same condition as if this Act had never been made.

Proviso:

XLVIII. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this Act.

CHAP. LXXVII.

An Act for reducing into one, all Acts and Parts of Acts, concerning Suits brought for Sterling Money, and for ascertaining the Rate of Exchange, and Damages upon Protested Bills of Exchange.

[Passed the 12th of November, 1792.]

I. WHEREAS bills of exchange are accounted in all payments as ready money, and it is expedient for the advancement of trade and commerce, that the credit of such bills should be preserved by making the same a sufficient security, and expediting the recovery of money thereupon:

Preamble.

II. BE it enacted by the General Assembly, That where any bill of exchange is or shall be drawn for the payment of any sum of money, in which the value is or shall be expressed to be received, and such bill is or shall be protested for non-acceptance or non-payment, the drawer or indorser shall be subject to the payment of fifteen per centum damages thereon, and the bill shall carry an interest of five per centum per annum from the date of the protest, until the money therein drawn for, shall be fully satisfied and paid.

Fifteen per cent. damages and five per cent. per annum interest, to be paid on protested bills.

III. IT shall be lawful for any person or persons, having a right to demand any sum of money upon a protested bill of exchange, to commence and prosecute an action of debt for principal, damages, interest, and charges of protest, against the drawers or indorsers jointly, or against either of them separately; and judgment shall and may be given for such principal, damages and charges, and interest upon such principal, after the rate aforesaid to the time of such

How suits may be brought and judgment entered thereon.

(a) 1761, ch. 5. (b) 1788, ch. 67, sec. 79, 69, 72. By act of Dec. Sess. 1798, ch. 13, 50 Cts. allowed for each debt. on motions on forthcoming bonds in Dist. Ct. and by act of Dec. Sess. 1800, ch. 12, 50 Cts. allowed for each notice proved in Inferior Courts.

In all bills of exchange is to be expressed what sum in current money was paid therefor.

Penalty for inserting any other sum.

Drawer may compel the drawee by bill in chancery, to discover the true rate of exchange.

Judgment for a sterling debt to be discharged at such a difference of exchange as the court shall think proper.

Where a person may declare for sterling money, and where not.

Judgments on bonds, &c. payable in sterling, for current money debts, at what rate of exchange to be discharged.

Repealing clause. Proviso.

Commencement of this Act.

judgment, and for interest upon the said principal money, recovered after the rate of five *per centum per annum*, until the same shall be fully satisfied. *a*

IV. IN all bills of exchange given for any debt due in current money of this Commonwealth, or for current money advanced and paid for such bills, the sum in current money that was paid, or allowed for the same, shall be mentioned and expressed in such bill, and in default thereof, in case such bill shall be protested, and a suit brought for the recovery of the money due thereby, the sum of money expressed in such bill, shall be held and taken as current money, and judgment shall be entered accordingly; and if any person so receiving or purchasing a bill of exchange, shall express, or cause to be expressed therein, any other than the true sum in current money allowed for the same, every such person so offending, shall forfeit and pay to the person drawing such bill, the whole sum of money for which such bill shall be drawn, to be recovered with costs by action of debt, in any Court of Record within this Commonwealth, wherein the same shall be cognizable. *b*

V. AND that people may not be injured for want of due proof of the rate of exchange so given or allowed for such bills, where the same is not truly expressed therein, such bills being usually negotiated in secret, and with such caution that it can seldom be detected in the ordinary course of evidence: *Be it further enacted*, That it shall and may be lawful for any drawer of such bill of exchange, to exhibit a bill in Chancery, in any Court of Record in this Commonwealth, having Chancery jurisdiction, against the person to whom such bill shall be payable, to compel him to discover upon his corporal oath, the true difference of exchange given or allowed for such bill, and in that case if it shall appear that a less rate of exchange was given or allowed than is expressed, the drawee of such bill shall be discharged from the penalty herein before inflicted for the same, but shall be decreed to pay to the drawer, so much money as the rate of exchange allowed, shall be less than the rate of exchange expressed, together with the damages of fifteen *per centum* thereon, and costs of suit, to the time of such decree. *b*

VI. IN any action which hath been or shall be commenced, and is or shall be depending for the recovery of any sterling money, in any Court of Record within this Commonwealth, wherein the Plaintiff or Plaintiffs shall recover, such Court shall have power, and are hereby directed by rule to be entered at the foot of their judgment in such action, to order such judgment to be discharged or levied in current money, at such a difference of exchange as they shall think just; any law, usage, or custom, to the contrary in any wise, notwithstanding.

VII. IF any person shall in any suit hereafter to be brought, declare for sterling money, except where the debt or duty is payable in sterling, the Plaintiff in every such suit shall be non-suited; and if any person shall after the passing of this act, take a bond, obligation, or note payable in sterling for any current money debt, and shall bring suit thereon, the Court before whom such suit shall be tried, upon proof being made thereof, shall order the judgment to be discharged or levied in current money, at the rate of thirty-three and one third *per centum*.

VIII. ALL and every Act or Acts, within the purview of this Act, shall be, and are hereby repealed. *Provided*, That nothing herein contained, shall be construed to extend to any contract entered into, or right which has accrued prior to the commencement of this Act, but the same shall remain in the same condition as if this Act had never been made.

IX. THIS Act shall commence in force, from and after the passing thereof.

CHAP. LXXVIII.

An Act, directing the Method of Proceeding in Courts of Equity against absent Debtors, or other absent Defendants, and for settling the Proceedings on Attachments against absconding Debtors.

[Passed the 26th of December, 1792.]

Preamble.

I. **W**HEREAS creditors have experienced great difficulties in the recovery of debts due from persons residing without the jurisdiction of this Commonwealth, but who have effects here sufficient to satisfy and pay such debts: For remedy whereof, *c*

(a) 1748, ch. 27, sec. 1. 2. 3. *(b)* 1755, ch. 2, sec. 4, 5. *(c)* 1744, ch. 1.

II. *BE it enacted by the General Assembly*, That if in any suit which hath been, or hereafter shall be commenced for relief in equity in the High Court of Chancery, or in any other Court, against any Defendant or Defendants who are out of this country, and others within the same, having in their hands effects of, or otherwise indebted to such absent Defendant or Defendants, and the appearances of such absentees be not entered, and security given, to the satisfaction of the Court, for performing the decrees, upon affidavit that such Defendant or Defendants are out of the Country, or that upon enquiry at his, her, or their usual place of abode, he, she, or they, could not be found so as to be served with process, in all such cases, such Court may make any order, and require surety if it shall appear necessary, to restrain the Defendants in this country from paying, conveying away, or secreting the debts by them owing to, or the effects in their hands of such absent Defendant or Defendants, and for that purpose may order such debts to be paid and effects delivered to the said Plaintiff or Plaintiffs, upon their giving sufficient security for the return thereof to such persons, and in such manner as the Court shall direct. *a*

III. THE Court shall also appoint some day in the succeeding Term, for the absent Defendant or Defendants to enter his or their appearance to the suit, and give security for performing the decree, a copy of which order shall be forthwith published in some public new-paper published in this State, convenient to the place where the Court is held, and continued for two months successively, and another copy shall be posted at the front door of such Court. If such absent Defendant or Defendants, shall not appear and give such security within the time limited, or such further time as the Court may allow, for good cause shewn, the Court may proceed to take such proof as the Complainant shall offer; and if they shall thereupon be satisfied of the justice of the demand, they may order the bill to be taken as confessed, and make such order and decree therein as shall appear just, and may enforce due performance and execution thereof, by such ways and means as hath heretofore been used for enforcing other decrees, requiring the Plaintiff or Plaintiffs to give security as the Court shall approve, for abiding such future order as may be made for restoring the estate or effects to the absent Defendant or Defendants, upon his or their appearance and answering the bill; and if the Plaintiff or Plaintiffs shall refuse to give, or not be able to procure such security, the effects shall remain under the direction of the Court in the hands of a Receiver, or otherwise, for so long time, and shall then be finally disposed of, in such manner as to the Court shall seem just. *a*

IV. If any person or persons who shall be out of the Commonwealth at the time any decree is pronounced as aforesaid, shall within seven years from the passing such decree, return, and appear openly; or in case of his or her death, if his or her Heir, Executor, or Administrator, shall, within the said seven years, be, and appear openly within this Commonwealth, the Plaintiff or Plaintiffs, their Executors or Administrators, shall serve such person or persons so returning or appearing, with a copy of the decree, within a reasonable time after such return or appearance shall be known to the Plaintiff or Plaintiffs, and thereupon such Defendant or Defendants, or their Representatives, may within twelve months after such service, or those Defendants not served with a copy, or their Representatives, may, within seven years after the decree pronounced, appear in Court and petition to have the cause reheard; and upon their paying down, or giving security for payment of such costs as the Court shall think reasonable, they shall be admitted to answer the bill, and issue may be joined, and witnesses on both sides examined, and such other proceedings, decree, and execution had, as if there had been no former decree in the cause: But, if the several Defendants, or their Representatives, upon whom the decree shall be so served, shall not within twelve months after such service, and the other Defendants, or their Representatives, upon whom no such service is made, shall not within seven years from the time of the decree pronounced, appear and petition to have the cause reheard as aforesaid, and pay or secure to be paid, such costs as the Court may think reasonable, all and every decree to be made in pursuance of this Act against any Defendant or Defendants so failing, shall stand absolutely confirmed against him, her, or them, by virtue of any Act or Conveyance, done or made, subsequent to the commencement of the suit; and at the end of such term, the Court may make such further order for quieting the Plaintiff or Plaintiffs in any such suits, in their possession and title to the estate and effects so sequestered or made liable, as to them shall seem reasonable. *a*

Courts of equity may stop the effects of absent defendants, who fail to enter appearance, in the hands of other persons.

May direct them to be delivered to the plaintiff on his giving security.

And shall appoint a day for the defendants' appearance.

A copy of the order when and how to be published.

If the defendant fails to appear, the bill may be taken for confessed and decree entered.

Plaintiff to give security for abiding such future order as may be made in the suit.

Plaintiff failing to give security, effects to remain under the direction of the court.

When and how persons affected by such decrees may have their causes reheard.

The same proceedings to be pursued against other absent defendants as against absent debtors,

V. IN all cases whatever, where a suit is or shall be depending in the High Court of Chancery, or other Court of Equity, concerning any matter or thing whatever against any absent Defendant or Defendants, the Court may, on satisfactory proof to them made, that such Defendant or Defendants, is or are out of this Commonwealth, or, that upon enquiry at his, her, or their usual place of abode, he, she or they could not be found, make any order similar to that which is directed to be made in case of absent debtors, adapting the same to the nature of the case; a copy of which order shall be published in like manner as is directed in case of absent debtors, and thereupon if the appearance of such absent Defendant or Defendants be not entered, the Complainant may proceed in like manner as if an appearance had been entered. *Provided always*, that where such decree shall be made, such absent Defendant or Defendants, may at any time within seven years, be permitted to file his, her, or their answer, and to shew cause why the said decree should be set aside; upon which the Court may make such decree as shall appear to be equitable. *a*

Attachments against absconding debtors, how to be obtained, executed and returned,

VI. IF any person shall make complaint to any Justice of the peace, that his debtor is removing out of the County or Corporation privately, or absconds or conceals himself, so that the ordinary process of Law cannot be served on him, such Justice shall grant an attachment against the estate of such debtor, or so much thereof, as shall be sufficient to satisfy the debt and costs of such Complainant; which attachment, where the debt or demand shall exceed five dollars, or two hundred pounds of tobacco, shall be returnable to the next County or Corporation Court, and directed to and served by the Sheriff, or his Under-Sheriff, unless in case where the Sheriff is a party interested, and then, the same shall be directed to, and served by a Coroner, or Serjeant; and it shall be lawful for such Sheriff, or Officer, to serve and levy the same, upon the slaves, goods and chattels of the party absconding, wherever the same shall be found, or in the hands of any person or persons indebted to, or having any effects of the party absconding, and to summon such garnishee or garnishees to appear at the next Court to be held for the said County or Corporation, there to answer upon oath, what he or she is indebted unto such party, and what effects of such party, he or she hath in his or her hands, or had at the time of serving such attachment; which being returned executed, the Court may thereupon compel such garnishee to appear and answer as aforesaid. *b*

Party obtaining one first to give bond and security, otherwise it shall be void.

VII. *PROVIDED always*, That every Justice of Peace, before granting such attachment, shall take bond and security of the party for whom the same shall be issued, in double the sum to be attached, payable to the Defendant, for satisfying and paying all costs which shall be awarded to the said Defendant, in case the Plaintiff suing out the attachment therein mentioned, shall be cast in his suit, and also all damages which shall be recovered against the said Plaintiff for his suing out such attachment; which bond shall be by the same Justice, returned to the Court to which the attachment is returnable; and the party entitled to such costs or damages, may thereupon bring suit, and recover; and every attachment issued without such bond taken, or where no bond shall be returned, is hereby declared illegal and void, and shall be dismissed.

Attachments repleviable by appearance, and giving bail, or security for appearance.

VIII. *PROVIDED also*, That all attachments shall be repleviable by appearance, and putting in good bail, if by the Court ruled so to do, or by giving bond with good security to the Sheriff or other Officer serving the same; which bond, the Sheriff or other Officer is hereby empowered and required to take, to appear at the Court to which such attachment shall be returnable, and to abide by and perform the order and judgment of such Court.

Rules where security is taken for appearance.

IX. *AND be it further enacted*, That upon the Defendant or Defendants replevying any attached effects, by giving bond and security to the Sheriff or other Officer as aforesaid, the Sheriff shall return the name of the security by him so taken; and if such security shall be adjudged insufficient by the Court, and if the Defendant shall fail to appear and give special bail, if thereunto ruled by the Court, such Sheriff and security shall be subject to the same judgment and recovery, and have the same liberty of defence and relief, as if such security had been taken upon the execution of mesne process.

Method of prosecuting attachments where the debt does not exceed 20 dollars, or 1000 lbs. of tobacco.

X. *AND be it further enacted*, That it shall be lawful for any creditor, where his debt doth not exceed twenty dollars, or one thousand pounds of tobacco, to go before any Justice of the Peace of the County or Corporation where his debtor resides, and make oath how much is justly due to him, and that he hath

grounds to suspect, and verily believes, that such debtor intends to remove his effects; and thereupon such Justice shall issue an attachment against the estate of such debtor, returnable to his next County or Corporation Court, directed to all Sheriffs, Serjeants, and Constables within the Commonwealth; and by virtue thereof, it shall be lawful as well for the Sheriff, Serjeant, or any Constable of the County or Corporation where such attachment shall be obtained, as for the Sheriff, Serjeant, or any Constable of other Counties or Corporations, to pursue and seize such effects, and to make return of such attachment to the Court where the same shall be returnable; and thereupon, such proceedings shall be had without a petition, as in other cases of attachment.

XI. AND upon complaint made to a Justice of Peace, that any person indebted to the complainant in any less sum than five dollars, or two hundred pounds of tobacco, is removing out of the County or Corporation privately, or so absconds or conceals himself that a warrant cannot be served upon him, such Justice shall, taking bond and security, as in this Act is before directed, grant an attachment against the estate of such debtor, or so much thereof, as shall be of value sufficient to satisfy the debt and costs of the party praying such attachment, directed to the Sheriff, or any Constable of his County, or Serjeant, or any Constable of his Corporation, and returnable before himself or any other Justice thereof, who shall and may proceed thereupon, as upon an attachment returnable to the County or Corporation Court.

Where it is under 5 dollars, or 200 lbs. of tobacco.

XII. AND if any attachment returnable to the County or Corporation Court, or before a Justice of Peace, shall be returned executed, and the goods or effects attached shall not be replevied as this act directs, the Plaintiff shall be entitled to a judgment for his whole debt, and may take execution thereupon; and all goods and effects attached and not replevied as aforesaid, shall be sold and disposed of, for and towards satisfaction of the Plaintiff's judgment, in the same manner as goods taken in execution upon a writ of *fi. facias*. And where any attachment shall be returned served in the hands of any Garnishee, it shall be lawful upon his or her appearance and examination, in the manner by this Act before directed, to enter up judgment and award execution against every such Garnishee and Garnishees, for all sums of money due from him, her, or them, to the person absconding, or in his, her, or their custody or possession, for the use of such person, or so much thereof as shall be of the value sufficient to satisfy the debt and costs of the Complainant; and all goods and effects whatsoever, in the hands of any Garnishee or Garnishees, belonging to such absconding person, shall be liable to satisfy such judgment.

Where the attachment is not replevied, the plaintiff shall have judgment.

Judgment against the garnishee.

XIII. AND whereas attachments are frequently served upon horses, cattle, hogs, sheep, and other live stock, which the Officers serving the same are obliged to retain in their custody for a length of time, before an order of Court can be obtained for the sale of such live stock, or for want of buyers, during which time such stock frequently perish for want of proper food, or are greatly impoverished, to the great detriment both of the creditor and his debtor: For remedy whereof, *Be it enacted*, that when any Sheriff or other Officer shall serve an attachment on horses or other live stock, and the same shall not be immediately replevied or restored to the debtor, it shall and may be lawful for such Officers, and they are hereby required to provide sufficient sustenance for the support of such live stock, until such stock shall be sold or otherwise legally discharged from such attachment; and upon the trial of any attachment, the Court before whom such attachment shall be tried, may and shall upon the motion of the Officer serving the same, settle and adjust what such Officer shall be allowed for his expenses incurred by supporting such stock, to be taxed in the bill of costs against the party against whom such judgment shall be given on such attachment, and the same shall be retained by the Officer out of the money arising from the sale of such stock; and the said Officer shall and may retain the expenses of supporting such stock, taken as aforesaid, out of the money arising from the sale, to be settled in manner aforesaid. And where the Plaintiff in any attachment shall be cast, the expenses aforesaid shall be taxed in the bill of costs against such Plaintiff, for which the Defendant may take execution with the other costs. *a*

Live stock attached to be supported by the officer.

And the expense defrayed out of the money arising from the sales.

XIV. *AND be it further enacted*, That upon proof being made before a Magistrate, that a debtor is actually moving or absconding as aforesaid on Sunday, it shall be lawful to issue and serve an attachment against such debtor, as is directed by this act on any other day.

Attachments may be issued on Sundays.

Penalty on master of a vessel carrying any person out of the Commonwealth, unless such person has certified in the Gazette his intention to leave it.

Such master may be sued at any time, and ruled to give special bail.

Repealing clause.

Commencement of this Act.

XV. NO master of a ship or other vessel shall transport or carry any person whatsoever out of this Commonwealth, unless such person shall first have published for six weeks successively in the *Virginia Gazette*, his, or her resolution to depart therefrom, under the penalty of answering and paying every debt and duty such person at his or her departure out of this Commonwealth shall owe, or stand bound for to the Commonwealth, or to any Citizen thereof, by judgment, bond, bill, covenant, account, or by any other ways or means whatsoever, to be recovered against such master by action of debt, in any Court of Record within this Commonwealth. *a*

XVI. EVERY master of every ship or other vessel offending herein, shall be liable to be sued at any time for any debt due or owing from the person so transported. And whensoever any such action or suit shall be brought against him, the Court wherein the same shall be depending, may rule the Defendant to give special bail, and the Clerk shall endorse on the writ, that appearance bail is required: *Provided*, the Plaintiff shall make affidavit before a Magistrate of the cause of action, which shall be transmitted to the Clerk of the Court. *a*

XVII. ALL and every Act or Acts, and part of Acts within the purview of this Act, shall be, and the same are hereby repealed.

XVIII. THIS Act shall commence and be in force from and after the passing thereof.

CHAP. LXXIX.

An Act declaring the Law concerning the Escape of Debtors and other Prisoners.

[Passed the 24th of November, 1792.]

Process against prisoners escaped.

Escape warrants.

Return thereof upon retaking the prisoner and proceeding thereon.

I. **F**OR the more effectual retaking and securing persons who escape out of Prison: *Be it enacted*, that if any person committed, rendered, or charged in custody, in execution, or upon mesne process, to any County or Corporation Prison, or to the Jail of any District, shall thence escape, it shall and may be lawful for any Justice of the Peace in the County or Corporation where such prisoner was in custody, upon oath of such escape before him made by the Sheriff, Under-Sheriff, Serjeant, Jailor, or other credible person, to grant unto any one demanding the same, one or more warrants under his hand and seal, directed to all Sheriffs, Mayors, Serjeants, Bailiffs and Constables, within this Commonwealth, reciting the cause of such prisoner's commitment, and time of his or her escape, and commanding them, and every of them in their respective Counties, Cities, Towns, and Precincts, to seize and retake such prisoner so escaped or going at large, and being so retaken, forthwith to convey and commit to the Prison where debtors are usually kept in the County or Corporation where such retaking shall be, there to be kept in safe custody, until he or she be thence discharged by due course of Law: which warrant the Sheriff or other Officer is hereby required to obey, and to receive the prisoner into his safe custody, and to give a note to the person or persons delivering him or her, testifying his receipt of such prisoner, and shall also make return of the execution of such warrant to the Court of that County, Corporation, or District from whence the prisoner escaped; and if he or she was there in custody, charged in execution, then the Sheriff or other Officer shall safely keep him or her, without bail or mainprize, until he or she shall make full payment and satisfaction to the Plaintiff or Plaintiffs, Creditor or Creditors, in whose name such execution was sued out, or until the judgment or judgments obtained against him or her shall be reversed or discharged by due course of Law. And if such prisoner shall have been in custody upon mesne process, in any action of debt, or upon the case, the Sheriff or other Officer to whom he or she shall be so recommitted, shall, in like manner, keep such prisoner in his safe custody, and make return of the execution of the warrant by which he or she was retaken, to the Court of that County, Corporation, or District wherein he or she was first arrested, and thereupon it shall be lawful for the said Court, upon the Plaintiff's or Creditor's filing his declaration, to proceed and give judgment thereon according as the truth of the case shall appear to them, in the same manner as if the Defendant had appeared in the said Court and refused to plead, unless such Defendant shall cause special bail to be entered in the said Court, and shall immediately plead

to issue, and then upon certificate under the hand of the Clerk of the said Court, that such bail is given, delivered to the Sheriff or other Officer in whose custody such Defendant then shall be, it shall be lawful for the said Sheriff or other Officer to set at large such prisoner, and not otherwise; but where any prisoner escaped and retaken upon such warrant as aforesaid, shall thereafter be charged with Treason, Felony, or other Crime or Cause in behalf of the Commonwealth, for which he or she ought to be tried in the District Court, and shall be for such cause removed to the Jail of the District Court, every such prisoner shall be charged in the said District Jail, with all the causes wherewith he or she stood charged in the prison from whence he or she was removed, until he or she be thence delivered by due course of Law, in like manner as is herein before directed. *a*

II. WHEN any person in execution, who shall have obtained the liberty of the Prison Rules, by giving bond and security for the same, shall hereafter escape and go out of the same, the Sheriff or other Officer of the County or Corporation where such prisoner was in custody, shall, and he is hereby required immediately to apply to a Justice of the Peace for an escape warrant, to retake such prisoner according to the directions of this Act, and such Sheriff or other Officer shall, and he is hereby required immediately to give notice thereof to the Creditor at whose suit he was in custody, or to his Attorney or Agent, and shall assign over and deliver to such Creditor, or his Attorney, the bond by him taken for the liberty of the Prison Rules, who shall be obliged to receive the same; and thereupon it shall and may be lawful for such Creditor, or his Attorney, to pursue the method directed by this Act for retaking such Debtor upon the escape warrant aforesaid; and if he be retaken thereupon, and committed to Jail, the securities for his keeping the Prison Rules, shall be discharged from their bond, or such Creditor, or his Attorney, shall or may, at their election, commence and prosecute an action or suit at Law against the security or securities named in such bond, for the recovery of his debt, notwithstanding he shall have applied for and obtained an escape warrant against his Debtor, as aforesaid, if such Debtor is not retaken and committed to Jail thereupon; and the Sheriff or other Officer shall not be liable or answerable for the payment of the debt for which such prisoner was in custody, unless the security or securities named in the bond by him taken of such prisoner for the liberty of the Prison Rules, shall afterwards be found to have been insufficient for the payment of such debt at the time the same was taken. *b*

Mode of proceeding against prisoners escaping from the prison rules.

III. AND whereas the situation of most Prisons in this Commonwealth, hath given opportunities to evil disposed persons to break open the same, and turn out Debtors and others in custody, to the hindrance of justice, prejudice of Creditors, and ruin of Sheriffs, who have been compelled to pay the debts with which such prisoners stood charged: For remedy thereof, *Be it further enacted*, that no judgment shall be entered against any Sheriff or other Officer, in any suit brought upon the escape of any Debtor in his or their custody, unless the Jury who shall try the issue, shall expressly find that such Debtor or prisoner did escape with the consent or through the negligence of such Sheriff (or Serjeant) or his Officer or Officers, or that such prisoner might have been retaken, and that the Sheriff (or Serjeant) and his Officers, neglected to make immediate pursuit. *Provided always*, that where any Sheriff or other Officer shall have taken the body of any Debtor in execution, and shall wilfully and negligently suffer such Debtor to escape, the person suing out such execution, his Executors or Administrators, shall and may have and maintain an action of debt against such Sheriff or other Officer, his Executors or Administrators, for the recovery of all such sums of money, and tobacco, as are mentioned in the said execution, and damages for detaining the same; any Law, custom, or usage to the contrary, notwithstanding. If any private person have any prisoner in his keeping arrested for suspicion of Felony, Treason, or Murder, and the person that is so arrested escape by negligent keeping, before that he be brought to the Jail, then the person from whom such prisoner so escaped, shall be liable to a fine on being found guilty on an indictment in the Court of that District in which such escape was made. *c*

Sheriff not liable, unless the prisoner escaped with his consent, or through his negligence, or unless he neglected to retake him when he might.

Action of debt may be maintained against Sheriff suffering debtor in execution to escape.

Penalty on private persons suffering criminals in their custody to escape.

IV. ALL and every Act and Acts, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provi-*

Repealing clause. Proviso

(a) 22 Geo. 2, ch. 6, sec. 13. (b) 5 Geo. 3, ch. 6, sec. 1. (c) 22 Geo. 2, ch. 6, sec. 12. 27 Geo. 2, ch. 1, sec. 37. 1780, ch. 30, sec. 15.

de a always, that all rights, remedies, fines, forfeitures and penalties, incurred previous to the passing of this Act, shall remain in the same condition as if this Act had never been made.

Commencement of this Act.

V. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXXX.

An Act to reduce into one, all Acts and Parts of Acts relating to the Appointment and Duties of Sheriffs.

[Passed the 23d of November, 1792.†]

Sheriffs, how to be nominated and appointed.

I. **B**E it enacted by the General Assembly, That the Court of every County within this Commonwealth, shall in the month of *June* or *July*, annually, nominate to the Governor or Chief Magistrate for the time being, three persons named in the commission of the peace, for such County, one of which persons so nominated, being approved by the Governor, with the advice of the Privy Council, shall be commissioned by the Governor, to execute the office of Sheriff in such County: *a*

Penalty on the Justices for not making the nomination.

II. IF the Court of any County shall fail to nominate persons for the office of Sheriff, within the periods above prescribed, every Justice so neglecting, shall forfeit and pay the sum of two hundred dollars. *b*

If a sheriff fails to give bond and security in 2 months, the clerk of the court to certify it to the Executive.

III. IF any person hereafter appointed Sheriff of any County, shall not within two months after his appointment, give bond and sufficient security, for the true and faithful performance of his duty as Sheriff, and also for the collection of taxes, the Clerk of the Court of such County shall, within one month thereafter, transmit to the Governor for the time being, a certificate of such neglect or failure, under the penalty of three hundred dollars. *b*

When the sheriff fails to give bond & security, or the person first nominated fails to apply for a commission, the Executive may commission some other person.

IV. IF the person first commissioned to the said office of Sheriff, shall fail to give bond in two months after his appointment, and the Clerk shall certify the same as above required, or if the person first nominated shall fail to make application to the Governor or Chief Magistrate, for a commission, within one month after such nomination, the Governor, with advice of Council, is hereby authorized and required to issue a commission to some other person nominated by the Court, which commission, to all intents and purposes, shall supercede and annul the former commission; and if the person thereafter commissioned, or nominated as aforesaid, shall be guilty of the like neglect, the Governor, with the advice of the Council, is hereby authorized and required, in either case, to commission any other person or persons nominated by the Court, which last commission shall in like manner supersede the former. *b*

How a sheriff is to be appointed in the room of one dying.

V. IF any Sheriff shall die in the time of his sheriffalty, the Governor, with the advice of the Council, may, and is hereby empowered and required, to commission some other person nominated by the Court, to be Sheriff in his room.

How long they shall be continued in office.

VI. EVERY person hereafter commissioned and qualified as aforesaid, shall be continued in office for one year after his qualification, and may, with his own consent, and the approbation of the Executive, be continued for two years, and no longer; unless by some accident or impediment, a succeeding Sheriff shall be prevented from qualifying, in which case the preceding Sheriff shall continue to act, until a successor shall be qualified according to the directions of this Act. *c*

How long they shall continue in office when appointed in the room of others dying.

VII. AND whereas inconveniences and disputes may arise, in case of the death of a Sheriff before his term of service may expire, and in such case the person appointed to succeed to the office of Sheriff, must serve one year from the time of such appointment, if not continued for two years, with his own consent, and with the approbation of the Executive, and in that case for two years from such appointment, which may occasion the Sheriffs in different parts of the country, to be appointed at different periods of the year: *Be it therefore enacted*, That when by the death of any Sheriff, another shall be appointed at any other time than in the months of *June* or *July*, the Governor, with advice of Council, may continue such successor in office, until the Court to be held in the months of *June* or *July* next after his two years continuance therein, shall expire; any thing in this Act to the contrary notwithstanding. *d*

† Amended in 1795, ch. 16, and in 1796, ch. 8. (a) Oct. 1783, ch. 2. '85, ch. 42. (b) Oct. 1784, ch. 59, sec. 1. 1785, ch. 2. (c) 1785, ch. 42. (d) 1763, ch. 2, sec. 3.

VIII. EVERY person accepting the commission of Sheriff, shall, before his being sworn into, or executing his office, enter into one bond before the Justices of his County Court, payable to the Governor of this Commonwealth, for the time being, and his successors, for the use of this Commonwealth, with good and sufficient security, in the sum of thirty thousand dollars, for the true and faithful collecting, accounting for, and paying the taxes imposed by Law in his County; which bond every County Court is hereby empowered and required to demand, take, and cause to be acknowledged before them in open Court, and recorded: And an attested copy thereof shall be transmitted by the Clerk to the Auditor of Public Accounts, which shall be admitted as evidence in any suit, motion or proceeding founded thereon. *a*

Sheriffs to give bond & security for duly collecting and accounting for the public taxes.

IX. IF upon the refusal to act, or disability of any Sheriff, it shall appear proper to the Executive to appoint a Collector, it shall be lawful for them to make such appointment, and the person so appointed Collector, shall give bond and security in the same manner as the Sheriffs do for duly collecting and accounting for the public revenue, and shall possess every power, and be liable to every penalty, which the Sheriff would have possessed, or been liable to.

When the Executive may appoint collectors of the public taxes.

X. EVERY person accepting the commission of Sheriff, shall likewise enter into another bond with two good and sufficient securities at the least, in the sum of _____, with a condition in the following form, to wit:

Sheriffs to give bond & security for duly collecting and accounting for all public levies, fines, &c.

*THE condition of the above obligation is such, that whereas the above bound A. B. is constituted and appointed Sheriff of the County of _____, by a commission from the Governor, under the seal of the Commonwealth, dated the _____ day of _____, last past. If therefore, the said A. B. shall well and truly collect all levies, and account for and pay the same in such manner as is by Law directed, and also all fines, forfeitures, and amercements, accruing or becoming due to the Commonwealth in the said County, and shall duly account for and pay the same to the Treasurer of this Commonwealth for the time being, for the use of the Commonwealth, in like manner as is or shall be directed in case of public taxes and shall in all other things truly and faithfully execute the said office of Sheriff, during his continuance therein, then the above obligation to be void, otherwise to remain in full force and virtue. *b**

And shall also enter into one other bond before such Court, with the like securities, in the sum of _____, with a condition, in the following form, to wit:

And for collecting and accounting for officers fees, and duly discharging the duties of his office.

*THE condition of the above obligation is such, that whereas the above bound A. B. is constituted and appointed Sheriff of the County of _____, by commission from the Governor under the Seal of the Commonwealth, dated the _____ day of _____, last past, If therefore the said A. B. shall well and truly collect and receive all officers fees and dues put into his hands to collect, and duly account for and pay the same to the Officers to whom such fees are due respectively, at such times as are prescribed and limited by Law, and shall well and truly execute, and due return make of all process and precepts to him directed, and pay and satisfy all sums of money and tobacco by him received by virtue of any such process, to the person or persons to whom the same are due, his, or their Executors, Administrators or Assigns; and in all other things shall truly and faithfully execute and perform the said office of Sheriff, during the time of his continuance therein, then the above obligation to be void, otherwise to remain in full force and virtue. *b**

XI. WHICH bonds shall be made payable to the Governor or Chief Magistrate for the time being, and his successors, and entered of Record in the County Court. And in the name of the Governor or Chief Magistrate, or his successors, any person or persons injured, may and shall at his, her, or their costs and charges, commence and prosecute suits on such last mentioned bond, against the parties therein bound, their Executors or Administrators, and shall and may recover all damages which he, she, or they may have sustained by reason of the breach of the condition of his bond; and such bond shall not become void upon the first recovery, or if judgment shall be given against any Plaintiff or Plaintiffs, who shall sue upon such bond; but may be put in suit and prosecuted from time to time, for the benefit, and at the proper costs and charges of any party injured, until the penalty expressed in such bond shall be recovered. *Provided always*, that if any verdict or judgment shall pass for such Sheriff, or his security, the person at whose instance such suit shall be brought or prosecuted, shall pay such Sheriff or his security their costs. *b*

Sheriffs bonds, to whom to be made payable. How suits may be brought thereon.

XII. NO person whatsoever shall be capable to serve or execute the office of Under-Sheriff, or Deputy-Sheriff of any County, for any longer time than

No person to act as a deputy sheriff more than

(a) 1781, ch. 40, sec. 4. May 1780, ch. 10. O.S. 1782, ch. 39. O.S. 1783, ch. 2. (b) 1755, ch. 2, sec. 12. 1781, ch. 40. 1783, ch. 39.

two years, unless he has collected and accounted for the public taxes.

Sheriffs and collectors to deliver to persons paying officer's fees, taxes, &c. fair accounts and receipts.

Sheriffs and other officers to execute process within their counties, & on the bays, rivers, and creeks adjoining thereto.

Penalty for a false return thereof.

When the sheriff may return that the defendant is not found.

No process to be served on Sundays. Nor on persons attending musters of militia; Elections; or as witnesses;

Except in cases of treason, felony, riot, breach of the peace, and escape.

Bonds taken by sheriffs from prisoners except in cases directed by law, void.

two years in any period of four years, unless he shall produce to the Court of the County, satisfactory proof of his having collected and accounted for the taxes assigned to him by his former principal. *a*

XIII. EVERY Sheriff, Deputy-Sheriff, or Collector, who shall hereafter receive from any person or persons, any officers fees, dues, taxes, County levies, or poor rates, shall deliver to the person so paying, a fair and distinct account of the several articles for which he shall receive the same, and also a receipt for what shall be so paid him; and every Sheriff, Deputy-Sheriff, or Collector, failing herein, shall forfeit and pay to the person by whom such payment shall be made, the sum of four dollars for each offence; to be recovered with costs before any Justice of the Peace of the County, where such Sheriff, Deputy-Sheriff, or Collector, shall reside; and such Sheriff or other Officer shall moreover be liable to the party grieved for all damages he may sustain, by means of such Officer's demanding and receiving a greater sum than shall be really due; to be recovered by action of trespass on the case, before any Court of Record within this Commonwealth, in which action, where the Plaintiff shall recover, he shall also recover full costs. *b*

XIV. EVERY Sheriff himself, or by his lawful Officers, or Deputies, shall from time to time execute all writs and other process to him legally issued and directed, within his County, or upon any Bay, River or Creek adjoining thereto, and shall make due return thereof, under the penalty of forfeiting twenty dollars for every failure; one moiety to the Governor for the time being, for the better support of the Government, and the contingent charges thereof, and the other moiety to the party grieved; to be recovered with costs by action of debt or information in any County Court of this Commonwealth; and such Sheriff shall be further liable to the action of the party grieved at common Law, for his or her damages; and for every false return, the Sheriff shall forfeit and pay sixty dollars, to be recovered, divided and applied in the same manner as last mentioned; and shall also in like manner, be liable to the party grieved for damages. *c*

XV. NO Sheriff shall return, upon any writ to him directed, that the Defendant is not found in his bailiwick, unless such Sheriff or other Officer shall have actually been at the dwelling-house or place of abode of such Defendant, and not finding him, shall have there left an attested copy of the same writ or process; and where any Defendant shall be a known inhabitant of any County, and not of the County of that Sheriff to whom the process shall be directed, such Sheriff shall return the truth of the case, but not that the person is not found in his County, and thereupon such process issued from any County Court Clerk's office as to such Defendant, shall abate and be dismissed. *c*

XVI. **PROVIDED* always, That it shall not be lawful for any Sheriff or other Officer, to execute any writ or process upon the Lord's day, commonly called *Sunday*, nor upon any person attending his duty at any muster of militia, or any election of Members of the State Legislature, or of that of the United States, or at any Election for the appointment of Electors to vote for a President of the United States; nor on any person attending as a witness, being duly summoned, at or on any order of survey issued from any Court, or as a witness attending on arbitration made by order of Court, or attending commissioners appointed to take depositions in the case of contested Elections; and that all process so executed, shall be illegal and void, unless the same be issued against any person or persons for Treason, Felony, Riot, Breach of the Peace, or upon any escape out of prison or custody, and such process shall and may be executed at any time or place. *† c*

XVII. IT shall not be lawful for any Sheriff or his Officer, or Deputy, to take any obligation or, or for any person or persons in his custody, for or concerning any matter relating to his office, otherwise payable than to himself as Sheriff, and dischargeable upon the prisoner's appearance, and rendering himself at the day and place required in the writ, whereupon he was or shall be taken or arrested: And every obligation by any Sheriff taken in other manner or form, by colour of his office, shall be null and void; except in any special

(a) 1772, ch. 11. 1787, ch. 40. (b) 1772, ch. 11, sec. 3. (c) 1748, ch. 6, sec. 5.

* See pa. 117, sec. 14, by which attachments vs. absconding debtors, may be served on Sundays. *†* See ch. 141, post, sec. 6, whereby witnesses are privileged in all cases except treason, felony, and breaches of the peace, during their attendance, and towards one day for every 20 from their places of abode.

case, any other obligation is or shall be by Law particularly and expressly directed *a*

XVIII. NO Sheriff of any County within this Commonwealth, shall demand or take any other greater fee or reward whatsoever, nor shall have any allowance, reward, or satisfaction from the public, for any services or business by him done, other than the allowance given and provided by Law; all other services shall be by him done *ex officio*. *b*

Sheriffs not to take more than the legal fees.

XIX. EVERY Sheriff shall collect and receive the taxes due to the Commonwealth, and shall also collect all levies, fines, forfeitures and amercements, and all Officer's fees, (and poor rates when appointed by the Overseers of the Poor to collect the same) and shall account for and pay the same in the manner directed by Law. *c*

Sheriffs to collect all levies, fines, &c. and poor rates, where appointed by the overseers of the poor.

XX. NO Sheriff or other Officer, nor any Collector of taxes, levies, fines, forfeitures, amercements, or poor rates, or Officer's fees, shall at any time seize or distrain the slave or slaves of any person or persons, if other sufficient distress can be had, nor shall make or take unreasonable seizures or distresses, upon penalty of being liable to the action of the party grieved, grounded upon this act, in which action the Plaintiff shall recover his full costs, although the damages given may not exceed seven dollars. *c*

Not to distrain slaves where there is other sufficient distress, or to make unreasonable distresses.

XXI. WHERE any person or persons accused of treason, felony, or other capital crime, shall be committed to any County Jail, and the Sheriff shall have cause to suspect such person will attempt to escape, such Sheriff is hereby empowered and required to impress sufficient guard for securing such prisoner or prisoners, so long as he, she, or they continue in the said jail, to be paid by the Public, after the rate of fifty cents for each man *per day*, in the same manner as the charges of summoning and holding Courts, for the examination of criminals.

May impress guards for securing criminals in jail.

XXII. AND for removing all controversies, touching the manner of turning over prisoners upon a Sheriff's quitting his office: *Be it further enacted*, That the delivery of prisoners by indenture, between the old Sheriff and the new, or the entering upon record in the County Court, the names of the several prisoners and causes of their commitment, delivered over to the new Sheriff, shall be sufficient to discharge the late Sheriff from all suits or actions for any escape that shall happen afterwards. *d*

Method of turning over prisoners by the sheriff to his successor.

XXIII. EVERY Sheriff shall have and may retain for all taxes, fines, forfeitures, and amercements, and all Officer's fees, except Clerks and Surveyor's fees and levies, an allowance of five *per centum* for collecting and paying the same, and no more. *+* *d*

Sheriff's commission for collecting taxes, fines, &c.

XXIV. NO Sheriff shall be obliged to go out of his County to pay money levied by execution, or to give notice to creditors at whose suit any person may be in custody of such Sheriff. *e*

Sheriff shall not be obliged to go out of his county to pay money levied by execution, &c. Sheriff's remedy against his deputy in certain cases.

XXV. THE High Sheriff of a County shall have the same remedy and judgment against his Under-Sheriff or Deputy, or the securities of such Under-Sheriff or Deputy, failing to pay the money by him received on any execution to the High Sheriff, or the party to whom the same is payable, his agent or attorney, or suffering any person in his custody to escape, as the Creditor at whose suit the writ issued may have against the High Sheriff, or such Under-Sheriff or Deputy, or the securities of such Under-Sheriff or Deputy. *f*

XXVI. AND to prevent disputes between Sheriffs and their several Deputies, which of them may have acted in serving of executions or process: *Be it further enacted*, That when any Under-Sheriff hath served any writ, execution, attachment, or other process whatsoever, he shall endorse on the back of such writ, the day of the month he or they shall have served the same, and subscribe his name, as well as that of his principal, to the return of such writ or other process; and every Under-Sheriff failing herein, shall be liable to the same penalty as is by Law inflicted on the Sheriff for a false return, and to be recovered and appropriated in the same manner. *f*

Deputy Sheriff, to indorse on executions the time when received, & to subscribe his own & his principal's names to returns on process.

XXVII. WHERE the Sheriff of any County heretofore hath, or hereafter shall appoint any person to be his Under-Sheriff, to collect the taxes required by

Sheriff's remedy against his deputy failing to act.

(a) 1748, ch. 6, sec. 7. (b) 1705, ch. 2, sec. 7. 1748, ch. 6, sec. 7. (c) 1748, ch. 6, sec. 8, 11. (d) 1748, ch. 6, sec. 16, 17. *+* By act of 1796, ch. 8, pa. 12, Sheriffs are allowed for collecting taxes, an additional compensation of 2 1-2 per cent. (e) 1769, ch. 3, sec. 13; see post, ch. 151, sec. 52. (f) 1763, ch. 3.

count for public taxes received by him.

Proviso.

Where Sheriffs lands would have been bound for public debts, they shall be bound in like manner for reimbursement of their securities paying such debts.

Repealing clause.
Proviso.

Commencement of this act.

Law in his County, and such Under-Sheriff shall neglect, or refuse to account for, and pay such taxes to the Sheriff under whom he hath been or shall be appointed, or to the Treasurer at the time appointed for paying the same, it shall, and may be lawful for the District Court, or Court of the County whereof he hath been, now is, or shall be Sheriff, upon motion to them made by such Sheriff, his Executors or Administrators, to give judgment against such Under-Sheriff, his securities, their Heirs, Executors or Administrators, for all the money wherewith he shall be chargeable, and five *per centum* damages, and five *per centum* interest thereon, and to award execution for the same; provided such Under-Sheriff, and his securities, have ten days previous notice of such motion: *Provided also*, That no execution shall be issued against an Under-Sheriff and his securities, for the five *per centum* damages, and interest thereon, unless judgment shall have been obtained against the High Sheriff for the same. *a*

XXVIII. WHERESOEVER the lands of any Sheriff or Collector would have been bound for any debt due to the Commonwealth, they shall be bound in like manner, to the security or securities who may have paid the whole or a part of such debt, and it shall be lawful for the General Court, or District Courts to award a like execution against the said lands, on the motion of such securities, to that which would have been issued on behalf of the Commonwealth, provided that ten days previous notice shall be given to the principal, his Heir or Devisee, as the case may be. *b*

XXIX. ALL and every Act and Acts, or parts of Acts, within the purview of this Act, shall be, and are hereby repealed. *Provided*, that all rights and remedies given by such Act or Acts, and all such parts of Acts, shall be, and remain as if this Act had not been made.

XXX. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXXXI.

An Act concerning Coroners.

[Passed the 29th of November, 1792.]

Coroners, how to be nominated and commissioned.

I. **B**E it enacted by the General Assembly, That from time to time hereafter, as often as there shall be a vacancy in the office of Coroner, in any County or Corporation within this Commonwealth, the Court of such County or Corporation shall, at their next Session thereafter, nominate two fit and discreet persons, residing within such County or Corporation, to be Coroner thereof; one of which persons, being approved by the Governor, with the advice of the Council, shall be commissioned by the Governor to execute the office of Coroner within such County or Corporation during good behaviour. *c*

Penalty on the Court failing to make the nomination.

II. IF any Court shall fail to make such nomination at the time prescribed by this Act, every Justice of such Court shall forfeit and pay the sum of one hundred and fifty dollars, to be recovered by action of debt in any Court of Record within this Commonwealth, one half to the use of the Informer, the other half to the use of the Commonwealth; or by information at the suit of the Auditor, in the General Court, in which case the whole penalty shall be to the use of the Commonwealth.

Several Coroners may be appointed in each county.

III. *PROVIDED always*, That nothing in this Act contained, shall be construed to restrain or prevent the County or Corporation Courts from nominating any person or persons to the Governor, to be Coroner within such County or Corporation, whensoever in their opinion a necessity may arise of having more than one Coroner in such County or Corporation.

But to act only within the limits of their respective counties.

IV. *PROVIDED also*, That no Coroner appointed for a County or Corporate Town, shall execute any of the duties of his office, except within such Town or County, for which he shall have been so appointed.

Oaths to be administered to them.

V. EVERY Coroner so commissioned, before he enters upon the duties of his office, shall, in open Court, take the oath of fidelity to the Commonwealth, and the following oath of office, viz.

I, A. B. do swear, that I will well and truly serve the Commonwealth, in the office of a Coroner, in the County or Corporation of _____, and therein will diligently and truly do all things appertaining to my said office, according to the best of

(a) May 1780, ch. 11. 1787, ch. 11, sec. 4. (b) From 1788, ch. 74, sec. 5.
(c) 3 Edw. 1, ch. 10. 14 Edw. 3, ch. 8.

my knowledge and power, both for the common weal, and the good of the Inhabitants within the said County or Corporation, taking such fees only as are by Law allowed.
So help me GOD.

And before he shall be at liberty to serve any writ of execution, shall moreover, in the Court of his County or Corporation, enter into bond with good and sufficient security, payable to the Governor for the time being, and his successors, for the use of the Commonwealth, in the penalty of ten thousand dollars, with condition for the true and faithful execution of his office. And if any Coroner shall presume to serve any such writ of execution without first taking the said oaths, and entering into bond as by this Act is directed, he shall forfeit and pay the sum of fifteen hundred dollars, one half to the use of the informer, the other half to the use of the Commonwealth; and shall moreover be liable to the same damages, judgment, and execution at the suit of the party grieved, in case of any misdemeanor or breach of duty in the execution thereof, as he would have been subjected to in the like case, after having been duly qualified to execute his said office.

Not to serve executions until they have given bond and security.

Under a penalty.

VI. UPON request made to a Coroner to come and enquire upon the view of any person slain, drowned, or otherwise by misadventure, or suddenly dead, or wounded, or where houses are broken, he shall forthwith go to the place where any be slain, drowned, or otherwise by misadventure, or suddenly dead, or where any house is broken, and shall forthwith issue his precept to the Sheriff, Serjeant of a Corporation, or Constable of the County, or Corporation, directing him to summon at least twelve of the most intelligent and respectable freeholders of the vicinage, or County or Corporation, to appear before him at the same place with all convenient speed. *a*

Inquest to be taken by the Coroner, where any person is found wounded or dead, or where any house is broken.

VII. AND when the said freeholders come to such place, the Coroner, upon the oath of twelve of them, shall enquire in this manner, to wit: If they know where the person was slain, whether it were in any house, field, bed, tavern, or company, and who were there: Likewise it is to be enquired, who were guilty either of the act or of the force, and who were present, either men or women, and of what age soever they be, if they can speak, or have any discretion. *a*

VIII. AND how many soever be found guilty by inquisition in any of the manners aforesaid, they shall be taken and delivered to the Sheriff or Serjeant, and shall be committed to the Jail, until the next Court to be holden within the County or Corporation, for the examination of such offender, and the Coroner shall have the like power and authority to summon such Court, and shall proceed in like manner as a Justice of the Peace before whom such criminal might have been charged with such offence, could or ought to do by Law. *a*

Persons found guilty by the inquisition, to be committed until the examining court
Coroner to have the same power as a justice to summon such court.

IX. IF any person is found slain, first it is to be enquired whether such person were slain in the place where found, or not; and if such person were brought and laid there, they shall do so much as they can to follow their steps that bro't the body thither, and ascertain in what manner such body was brought there. It shall be enquired also if the dead person were known, or else a stranger, and where such person lay the night before. *a*

Duty of the jury when any person is found slain.

X. AND if any person be found guilty of the murder, the Coroner shall immediately go into his house, and shall enquire what estate both real and personal he hath, and after such enquiry, the said Coroner shall cause all the estate to be valued, and keep the same in his hands, until the person found guilty by the Inquest be taken or surrender himself. *a*

Coroner to keep in his hands estate of the murderer until he is taken.

XI. AND every Coroner upon any inquisition found before him, whereby any person or persons shall be indicted for murder or manslaughter, or as accessory or accessories to the same before the murder or manslaughter committed, shall put in writing the effect of the evidence given to the Jury before him, being material; and the said Coroner shall have authority by this Act to bind all such by recognizance or obligation, as do declare any thing material to prove the said murder or manslaughter, offences or felonies, or to be accessory or accessories to the same, as is aforesaid, to appear at the Court to be holden within the County, City, or Borough, for the examination of such offender or offenders, then and there to give evidence against the party so indicted, at the time of his trial; and shall certify as well the same evidence as such bond or bonds in writing as he shall take, together with the inquisition or indictment before him taken and found, at or before the time of his said trial thereof to be had or made, to such Court. *b*

To commit to writing the evidence given to the jury.

And to take the recognizances of the witnesses to appear at the examining court.

(a) 1 H. 8, ch. 7. 4 Edw. 1, stat. 1, 2. (b) Stat. 1 & 2. Ph. & Mary, ch. 13, sec. 5.

Where persons are drowned or suddenly dead.

After inquest the dead body to be buried.

Person dangerously wounding another to be immediately arrested.

Wounds to be viewed and described.

Accessaries to be apprehended and confined.

And any suspected of murder.

Hue to be levied of murders, burglaries, &c.

Coroner to issue his warrant to apprehend persons found guilty of murder by inquisition.

Penalty on a coroner for neglecting his duty.

Process when to be served by the coroners

Coroners subject to the like penalties and fines as sheriffs.

No security to be taken on executions against them for neglect of duty.
Repealing clause.

Commencement of this act.

XII. IN like manner it is to be enquired respecting them that be drowned, or suddenly dead, what marks of violence appear on their bodies; whereupon they shall proceed in the form aforesaid. *a*

XIII. AND immediately upon these things being enquired, the bodies of such persons being dead or slain, shall be buried. *a*

XIV. IF any person be dangerously wounded, the party accused shall be taken immediately, and kept until it be known perfectly whether he that is hurt shall recover or not; and if he die, the Defendant shall be kept; and if he recover health, he shall be attached by pledges according to the danger of the wound.

XV. ALSO all wounds ought to be viewed, the length, breadth and deepness, and with what weapons, and in what part of the body the wound or hurt is, and how many be guilty, and how many wounds there be, and who gave the wound; all which things must be inrolled in the roll of the Coroners.

XVI. MOREOVER, if any be accused of any act done, as principal, they that be accused as accessary, shall be attached also, and safely kept in custody, until the principal be attainted or delivered.

XVII. IF any be suspected of the death of any man, he shall be taken and imprisoned, as before is said. *a*

XVIII. IN like manner hue shall be levied for all murders, burglaries, and for men slain, or in peril to be slain, and all shall follow the hue and steps, as near as can be, and he that doth not, shall be amerced at the discretion of a Jury. *a*

XIX. IF any be found guilty by inquisition taken in manner directed by this Act, and be not present, nor in custody, the Coroner shall straight issue his warrant to apprehend the person so found guilty, and the accessaries, if any; and the person accused, if apprehended, shall straightway be carried before some Justice of the County or Corporation where the offence was committed, to be dealt with as the Laws direct.

XX. IF any Coroner be remiss, and make not inquisition upon the view of the body slain or murdered, or shall not endeavour to do his office upon any person dead by misadventure, or shall not certify the inquisition by him taken in the manner directed by this Act, he shall for every such offence, forfeit the sum of one hundred dollars, to be recovered by action of debt, in any Court of Record of this Commonwealth, one half thereof to the use of the Informer, the other half to the use of the Commonwealth.

XXI. IN every case when by reason of a just exception to the Sheriff of any County, or Serjeant of a Corporation, any writ, of what nature soever the same may be, shall be delivered to the Coroner of such County or Corporation to execute, such Coroner shall do and perform all things by virtue of such writ, which the Sheriff or Serjeant himself, might or ought to have done, had there been no just exception against him according to the nature of the case; and in case of any neglect or breach of his duty, such Coroner shall be subject to the same pains, penalties, fines, forfeitures, and damages, and to the same proceedings, judgment and execution, as Sheriffs or Serjeants are subject to in like cases. *b*

XXII. AND upon every execution issued against a Coroner, upon any judgment against him obtained for breach or neglect of his duty, the Clerk shall endorse, that "no security is to be taken." *b*

XXIII. ALL and every Act, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed.

XXIV. This Act shall commence and be in force, from and after the passing thereof.

CHAP. LXXXII.

An Act concerning Escheators.†

[Passed the 30th of November, 1792.]

Escheators, how to be appointed.

I. **B**E it enacted by the General Assembly, That there shall be one Escheator commissioned in every County by the Governor, on recommendation from the Court of the same County, who shall execute his office in proper

(a) Stat. 4. Edw. 1, Stat. 2. (b) 1764, ch. 6, sec. 2. † See post, ch. 180, and acts of 1797, ch. 6, 13.

person and not by deputy, and shall before the Court of the County be bound in the penalty of three thousand dollars, with security to be approved by the same Court, duly to perform the duties of his said office. *a*

Not to act by deputy.
To give bond and security.

II. THE said Escheator shall sit in convenient and open places, and shall take his Inquests of fit persons who shall be returned and impannelled by the Sheriff of the County, and shall suffer every person to give evidence openly, in their presence, to such Inquests, and the said Inquisition so taken, shall be by indentures to be made between the said Escheator and them of the Inquest, whereof the counter-part, sealed by the Escheator, shall remain in the possession of the first person that shall be sworn in the said Jury, and by him shall be returned to the Court of the same County, there to be recorded; and the other part, sealed by the Jurors, shall by the Escheator be sent into the Court of the District in which the land lieth, within one month after the Inquest taken. *a*

When and how they are to take their inquests.

III. AND if it be found for the Commonwealth, and there shall be any man that will make claim to the lands, he shall be heard without delay, on a traverse to the office, *monstrans de droit*, or petition of right; and the said lands or tenements shall be committed to him if he shew good evidence of his right and title to hold, until the right shall be found and discussed for the Commonwealth, or for the party, finding sufficient security to prosecute his suit with effect, and to render and pay to the Commonwealth the yearly value of the lands, if the right be discussed for the Commonwealth. *a*

Mode of proceeding where any man claims the land.

IV. NO lands nor tenements seized into the hands of this Commonwealth, upon such Inquest taken before Escheators, shall be in any wise granted, nor to farm let to any if it be not to him or them which claim as is aforesaid, till the same Inquests and verdicts be fully returned into the District Court, nor within six months after the same return, but shall entirely and continually remain in the hands of the Escheators, who shall answer to the Commonwealth the issues and profits yearly coming of the said lands and tenements, without doing waste or destruction. *a*

Lands seized by the Commonwealth not to be let to farm to any but the person claiming them.

V. IF no person within the six months before mentioned, make claim to the lands or tenements so seized, or claim being so made, if it be found and discussed for the Commonwealth, the Clerk of the District Court shall within one month thereafter, certify to the Escheator of the County where the lands lie, that no claim hath been made, or that being made it hath been discussed for the Commonwealth; which Escheator shall thereupon proceed to make sale of the lands for the benefit of the Commonwealth, to him who will give the most, after one month's public notice of the time and place of doing the same, and shall certify the purchaser and price to the Register of the Land-Office, who, on receiving a certificate that such price hath been paid into the treasury, shall have a grant executed to the purchaser, in such manner as by Law directed, in the case of unappropriated lands. *a*

When and how they shall be sold, if they are not claimed, or being claimed, the right be found in the Commonwealth.

VI. WHERE any person holds lands or tenements for term of years, or hath any rent, common, office, fee, or other profit apprender of any estate of freehold, or for years, or otherwise, out of such lands or tenements, which shall not be found in such office or inquisition, such person shall hold and enjoy his lease, interest, rent, common, office, fee, and profit apprender, in manner as if no such office or inquisition had been found, or as if such lease, interest, rent, common, office, or profit apprender had been found in such inquisition. *a*

Saving to persons their terms for years, rents, commons, &c. out of such lands, whether they be, or be not found in the inquisition.

VII. ALSO, if one person or more be found heir by office or inquisition in one County, and another person be found heir to the same person in another County; or if any person be untruly found lunatic, idiot, or dead, the person grieved by such office or inquisition, may have his traverse or *monstrans de droit* to the same, without being driven to any petition of right, and proceed to trial therein, and have like remedy and restitution upon his title, found or adjudged for him therein as in other cases of traverse upon untrue inquisition found. *a*

Where a traverse or *monstrans de droit* may be had to an inquisition.

VIII. ALL and every Act and Acts, clauses and parts of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Repealing clause.

IX. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. LXXXIII.

An Act prescribing the Mode of ascertaining the Taxable Property within the Commonwealth, and of Collecting the Public Revenue.†

[Passed the 13th of December, 1792.]

Commissioners of the revenue to be appointed.

Where there are several in a county, separate districts to be assigned to each.
Three to be appointed in certain counties.

Two in certain other counties.

And one in every other county, and in certain cities and towns.

Who shall be incapable of holding the office.

Clerks of the courts to certify to the commissioners their appointment.
Their oath.

To receive and keep the books containing the accounts of the taxes on lands.

To be furnished with lists of conveyances and partitions;

I. **EVERY** County and Corporation Court within this Commonwealth shall annually, in the months of *October* or *September*, appoint discreet and reputable persons, to be Commissioners for the purposes herein after mentioned. *a*

II. IN those Counties where more Commissioners than one are directed to be appointed, the said Courts shall also distinctly lay off and ascertain the bounds of the District allotted to each Commissioner. *b*

III. IN each of the Counties of *Fauquier* and *Loudoun*, there shall be three Commissioners; in each of the Counties of *Culpeper*, *Accomack*, *Albemarle*, *Amherst*, *Augusta*, *Bedford*, *Berkeley*, *Botetourt*, *Brunswick*, *Buckingham*, *Campbell*, *Caroline*, *Charlotte*, *Chesterfield*, *Dinwiddie*, *Essex*, *Fairfax*, *Franklin*, *Frederick*, *Goochland*, *Greenbrier*, *Halifax*, *Hampshire*, *Hanover*, *Hardy*, *Harrison*, *Henrico*, *Isle of Wight*, *King & Queen*, *Louisa*, *Lunenburg*, *Mecklenburg*, *Monongalia*, *Montgomery*, *Nansemond*, *Norfolk*, *Northumberland*, *Ohio*, *Orange*, *Pendleton*, *Pittsylvania*, *Prince Edward*, *Prince William*, *Princess Anne*, *Rockbridge*, *Rockingham*, *Russel*, *Shenandoah*, *Southampton*, *Spotsylvania*, *Stafford*, *Suffex*, *Washington* and *Wythe*, there shall be appointed two Commissioners; and in each of the Counties not herein before mentioned, and in each of the Cities of *Williamsburg* and *Richmond*, and the Towns of *Petersburg*, *Alexandria*, *Fredericksburg* and *Winchester*, and Borough of *Norfolk*, there shall be appointed one Commissioner.

IV. *PROVIDED*, That no member of either House of Assembly, persons holding any office in civil government receiving stated salaries, practising Attornies, or Physicians, Clerks of Courts, Inspectors, Ordinary keepers, Sheriffs, Surveyors or their Deputies, or persons that have been in the office of Sheriff, Deputy Sheriff, or Collector of public taxes in their County, shall be capable of acting or serving as Commissioner, unless it shall appear by sufficient testimony, other than the party's own oath, that such Sheriff or Collector hath completed his collection, fully paid the amount thereof into the Treasury, and finally closed every account relative thereto.

V. THE Clerk of the Court shall certify to every Commissioner his appointment without delay, and thereupon each Commissioner shall repair to some acting Magistrate of the County, and take the following oath, or affirmation, to wit:

I, A. B. do swear, (or solemnly, sincerely, and truly declare and affirm) that, as Commissioner of the Revenue for County, (City, Town, or Borough of Norfolk, as the case may be) I will to the best of my skill and judgment, diligently and faithfully execute the duties of the said office, without favor, affection, or partiality. And that I will do equal right and justice according to the best of my knowledge, in every case in which I shall act as Commissioner. So help me GOD. A certificate of which oath, or affirmation, shall be given the Commissioner by the Magistrate administering it, and the Magistrate shall also certify the same to the next Court held for his County, to be recorded.

VI. **EVERY** Commissioner thus qualified, shall perform the following duties within his District: He shall in the first place apply to the preceding Commissioner, or other person, who shall have possession of it, for the book containing the owners' names, the number of acres or lots, the rate at which land is valued by the acre, the amount or total value of each tract or lot of land within his District, and the tax payable thereon; which book the said Commissioner shall keep so long as he shall continue in office, and on his death, resignation, or inability to act, shall be delivered to the succeeding Commissioner for the District. And every Commissioner shall in the said book note from time to time, all such alterations, alienations, divisions and additions, as may happen within his District, and shall also perform all the duties of the Commissioners of the land tax as herein prescribed.

VII. THE Clerk of the General Court, and the Clerks of the several District Courts, on or before the first day of *May*, annually, are hereby directed to make return, and the Clerks of the County and Corporation Courts to deliver to the said Commissioners, a list of conveyances or partitions record-

ed in their respective Courts within the preceding year, certifying the quantity and situation of the lands so conveyed; and the Register of the Land-Office, on or before the first day of *April*, annually, shall in like manner transmit a list of all grants issued within the year preceding, to be by them valued at a price equal to other lands within their respective Districts, similar in soil and situation, and such Commissioner shall give a credit to the person disposing of the same, and charge the purchaser or receiver with the tax payable thereon; and in like manner in cases where lands have not been heretofore valued, or where lands which now are vacant and may hereafter be taken up, the said Commissioners shall, and they are hereby required to value the same and charge the owner thereof with the tax in manner aforesaid. *a*

and of patents.

To value the lands therein mentioned,

Their duty in case of alienations or partitions, and where lands have not been heretofore valued.

To take the lists of taxable property.

VIII. THE said Commissioners shall severally on the tenth day of *March*, annually, begin, and continue proceeding without delay through their respective Districts, and call upon every person subject to taxation, or having property in his or her possession or care, on which any tax is imposed, for a written list thereof, which list being corrected, if necessary, and distinctly read over by the Commissioner to the person delivering the same, he or she shall then make oath or affirmation, that such list contains a just and true account of all persons, and of every species of property in his or her possession or care, within the District, (land only excepted) subject to taxation on the ninth day of *March*, then next preceding, and that no contract, change or removal whatever of property had been made or entered into, or any other method devised, practised or used, in order to evade the payment of taxes; which oath or affirmation the Commissioner is hereby empowered and directed to administer. *b*

IX. AND whereas frequent abuses have been practised by the owners of billiard tables by taking them down, so as to defeat the intention of this Act: *Be it enacted*, That the Commissioner shall return all such which to his knowledge have been set up or used within his County at any time within the year, although the same may not be returned by the owner thereof, and such tables shall at all times be liable for the tax. *b*

Rule respecting billiard tables.

X. EACH of the said Commissioners shall after collecting the lists of property from the inhabitants of his District, in manner before mentioned, make four alphabetical general lists therefrom, shewing in columns, according to the form hereto annexed, the date when each list was received, the persons chargeable with the tax or taxes, distinguishing those also subject only to County levies and poor rates, and the number or quantity of every species of property subject to tax, which lists shall be kept and delivered in the following manner: Each Commissioner shall retain one of those lists in his own possession, so long as he continues in office, afterwards to be delivered to his successor, as in the case of the land-tax books, and one other of the lists, together with the lists taken from the individuals in his District, shall be returned to the Clerk, who shall examine the same, and if found to be erroneous, either in addition or otherwise, correct the same together with the others, and then certify them to be true copies. The lists in the Clerk's office shall serve for laying the County levy, and fixing the poor rates, and be subject to the inspection or examination of every person who may choose to examine the same, provided they be not taken out of the Clerk's possession; and copies may be had at the charge of the person or persons desiring the same. One other of the said lists after being certified by the Clerk, shall be delivered by the Commissioner to the High Sheriff of the County, as his guide to collect the taxes, and the remaining fourth list being also certified by the Clerk, shall be transmitted by the Commissioner to the Auditor's office, there to be minutely examined, and to be produced by the Auditor, and admitted as evidence by the General Court, for the amount of taxes charged the Sheriff. All which lists it is hereby declared, to be the duty of the several Commissioners to have delivered to the several persons or Officers, on or before the last day of *May*, annually. And the said Commissioners shall take a receipt or acknowledgment in writing of the delivery of such lists. *b*

Commissioners to make four general alphabetical lists of taxable property.

To whom such copies shall be delivered.

And when.

XI. THE said Commissioners shall also at the time of delivering lists of taxable property herein before directed, deliver to the Clerk of his County, and at the Auditor's office, a fair and correct copy of the state of the land tax, noting the alterations, alienations, divisions, and additions that may have taken place in the preceding year, within his District, to enable the Clerk to adjust

To deliver fair copies of the state of the land tax to the clerk of the court, the sheriff, and the Auditor.

his book of the land tax, and the Auditor to adjust the Equalizer's books; and the book containing the land tax, together with the annual returns of the several Commissioners lodged in the Clerk's office, shall be subject at all times to the inspection of every person, in like manner as the lists of taxable property; and the said Commissioners shall also deliver to the Sheriff an exact list of taxes due from all and every person or persons for land within his District, to enable the Sheriff to proceed in his collection.

Penalty on person refusing to serve as a commissioner.

XII. IN case any person appointed to the office of Commissioner under this Act, shall refuse to serve, not having a reasonable excuse in the opinion of the Court of the County, he shall for such refusal, forfeit and pay the sum of one hundred dollars.

None compellable to serve more than one year
Vacancies, how to be supplied.

XIII. NO Commissioner after having served one year, shall be again compelled to serve.

XIV. UPON the refusal to act, notice of resignation, death or inability of any Commissioner, it shall be the duty of the Court of such County, immediately to appoint a successor, and the Clerk is directed to call for all papers in the preceding Commissioner's hands, or his legal representatives; and in case they be lost, shall be furnished on application as herein before directed.

Allowances to the clerks of courts.

XV. THE Court of each County, City, and Corporation, shall make such allowance to the Clerk for his services under this Act, as they shall think reasonable, which shall be levied on the tithables within the same.

To the commissioners.

XVI. THE Commissioners of the revenue shall before the first day of August in every year, return to the Courts of their respective Counties or Corporations, a correct account of their services, and the said Courts are hereby respectively authorized and required to ascertain the time, in which the said services might have been reasonably performed, and shall certify the same to the Auditor of public accounts in manner following:

THIS day produced an account of his services as a Commissioner of the revenue, and the Court have considered that days were requisite for the said Commissioner to perform the services aforesaid:"

For entries of alienations or alterations.

Allowances to commissioners not to exceed the taxes of the county.

May be removed from office by the court of the county.

And in lieu of the allowance heretofore made, the said Commissioners shall be paid by the Treasurer of this Commonwealth, on warrant from the Auditor of public accounts, one dollar per day, agreeably to the time so ascertained by the Court. And for every entry of alienation or alteration, they may demand and receive forty-two cents, and no more. *Provided always*, that no Commissioner or Commissioners, shall be allowed a sum or sums exceeding the revenue tax, of his or their respective Counties or Corporations. *a*

XVII. ON complaint made to any County or Corporation Court, that a Commissioner neglects or abuses the trust hereby vested in him, it shall be lawful for such Court to order a summons to issue, requiring the said Commissioner to appear before them at their next succeeding Court, which being served on him, or a copy thereof left at his usual place of abode, ten days at least before the return day thereof, the Court may proceed to hear and determine the complaint, and may remove him from office if it appear to them that the said complaint is well founded. *b*

Penalty for delivering false lists of property, or refusing to give lists on oath.

How the lists are to be taken and the property taxed in such cases.

XVIII. IF any person shall give or deliver to a Commissioner, a false or fraudulent list of persons or property, subject to taxation, or shall refuse to give a list on oath or affirmation, when required by the Commissioner, the person or persons so refusing shall be liable to a fine of fifteen dollars, and the Commissioner shall proceed to list such person's property, agreeable to the best information he can procure; and all such property so ascertained, shall be moreover subject to a triple tax, to be collected and distrained for by the Sheriff, as in other cases; and in the case of an imperfect, false, or fraudulent list, the person giving the same, shall be subject to pay a fine of fifteen dollars, and the property subject to a triple tax; which fines and triple taxes shall be recovered in the County Court by the following mode of proceeding, and applied as herein after directed. *b*

Mode of proceeding against the delinquents.

XIX. THE Commissioner shall give information thereof personally, or if unable to attend, in writing, under his hand, to the next Court held for his County, which Court shall forthwith direct the Clerk to issue a summons, requiring the party to appear at the next Court to be held for the County, to shew cause, if any he can, why he should not be fined, and triply taxed for giving an imperfect or fraudulent list of taxables; and the person or persons, upon being served therewith by the Sheriff, and appearing, shall immediately plead to issue,

and the matter thereof shall be enquired into by a Jury, or the Court, at the Defendant's option, and on conviction, or the person failing to appear upon being summoned, the fine and triple tax shall be established by judgment of the Court, who, unless good cause shewn at the next succeeding Court, for such failure, shall award execution for the fine and costs, and certify the amount of the tax to the Sheriff, for collection, and to the Auditor's office; the amount of which fine, after deducting thereout such allowance as the Court may think reasonable to make the Commissioner for his extraordinary trouble on the occasion, shall be applied towards lessening the County levy; and the triple tax shall be charged to the Sheriff, and accounted for in like manner as the other taxes. *a*

XX. THE Clerk of the Court shall set up at the door of his Court-house, a copy of the proceedings in such cases, on the succeeding Court day. *a*

XXI. AND for preventing frauds or impositions upon Commissioners: *Be it further enacted*, That every person or persons having knowledge of any incorrect, false, or fraudulent list being given a Commissioner, shall give information thereof, either to a Commissioner, or to the County Court, in like manner as the Commissioner is directed, and thereupon the same mode of proceeding shall be had, as if the Commissioner gave information; and the person informing shall be entitled to, and receive one half of the fine imposed on the offender or offenders, to his own use, and the other half to be applied towards lessening the County levy. *a*

XXII. THE Clerk of every County Court shall transmit to the Governor, a fair and attested copy of all proceedings had at his Court, in pursuance of this Act, immediately after every Court, noting therein the names of the sitting Magistrates; which attested copy shall be admitted as proof on any motion in the General Court, by the Auditor, for the recovery of any fine imposed by this Act. *a*

XXIII. THE Clerk, Justices, or Commissioners, or their legal representatives, failing to perform any one of the duties imposed on them respectively, by this Act, shall be subject to a fine of one hundred and fifty dollars, to be recovered by motion on any day, at either of the Sessions in the General Court, at the instance of the Auditor; notice of such motion being previously given in the same manner as to delinquent Sheriffs. *a*

XXIV. IN case any person should be absent from his or her place of residence at the time the Commissioner calls to receive the list, and it should appear to the Commissioner, that such absence was not intentional, or done with a view of avoiding the delivery of such list, it shall be lawful for the Commissioner to require the attendance of such absent person, with his or her list, at any time and place within the said District, provided such person tenders his or her list to the Commissioner, and makes oath to the justness of it, on or before the twenty-fifth day of *May* annually; and in case of failure, the Commissioner shall proceed in like manner as is before directed, in cases of refusal to give in lists; and the Court shall determine upon the circumstances of the case, whether to inflict or remit the fine and triple taxes. *a*

XXV. A LIST of all the insolvents returned by the Sheriff to the Court, shall be transmitted by the Clerk to the Commissioners of the Revenue, to be entered in their book of taxes for that year; and no Sheriff shall have credit for such insolvents in his account with the public, unless certified by the said Commissioners to have been allowed by the Court; and the said Commissioner shall moreover transmit with the said lists of insolvents, an account of the tax of any person who may have removed out of the County, together with the name of the County, to which they have removed; which account the Auditor is hereby directed to transmit to the Commissioners of the Revenue of the County to which they have removed, to be charged on their books, and collected by the Sheriff. An account of all fines or additional taxes imposed by virtue of this Act, shall be by the said Commissioners, transmitted to the Auditor's office, before the first of *August*, annually. And the said Commissioners shall state in their book of taxes, a general account with the Sheriff, for all taxes, fines and additional taxes in their County, crediting him for all insolvents, and also for all payments made by the said Sheriff to the public; receipts for which shall be by the said Sheriff transmitted to the said Commissioners within twenty days, after obtaining the same, a copy of which account shall be by the said Commissioners transmitted to the Auditor's office, before the first day of *May*, annually. *a*

Copy of the proceedings to be set up at the court-house door.

Every person knowing any false list to be delivered, to give information to the commissioner or the court.

Copy of the proceedings of the court under this act to be transmitted to the Governor. And to be admitted as evidence on the Auditor's motions for fines.

Penalty on the clerks, justices, or commissioners for neglect of duty.

How the lists are to be taken when the persons chargeable are absent when the commissioners call to receive them.

Lists of insolvents to be entered in the commissioners' books. And the sheriff credited therefor. Taxes due from persons removing from one county to another, how to be collected.

Account of additional taxes and fines to be sent to the Auditor. Commissioners to state a general account of taxes with the sheriff.

shall have the power of distraining for the taxes now due, for the term of eighteen months from the passing of this Act: *Provided nevertheless*, that no Sheriff or Collector shall be allowed to distrain for such arrearages, until he shall have entered into bond, with sufficient security, to be approved of by such Court, to pay and satisfy all such damages and costs as may be recovered against him, for any abuse of the power hereby vested in him. *a*

Exception with a proviso.

XXX. IT shall be lawful for the County Courts within this Commonwealth, to qualify any person or persons, for the purpose of completing the collection of taxes in any County, where the Sheriff and his Deputy shall die, before such collection shall be completed: and the person or persons so appointed, after having given bond and security to the Executors or Administrators of the said Sheriff, to be approved of by the Court for the faithful performance of the duties of the office, shall have the same power in all respects, for collecting such arrears, as the High Sheriff would have had. But the acting Executors or Administrators of such High Sheriff, if any such there be, at the time of such appointment, shall be summoned by order of the said Court, to shew cause, if any they can, against the person whom the said Court shall nominate. *b*

How to be collected where the Sheriff and his deputies die.

XXXI. THE person or persons so appointed, shall in all respects be subject to the same penalties, for any neglect of duty, or failing to account for and pay to the person or persons authorised to receive the money by him or them so collected, and may be proceeded against by such Executors or Administrators, in the same manner as Deputy-Sheriffs are liable to, and may be proceeded against by their principals. *b*

XXXII. IN case payment be not made by any person chargeable with any tax, levy, fine, or forfeiture, or amercement, the Sheriff or Collector shall have power to distrain the slaves, goods or chattels which shall be found upon the lands, or in possession of the person so indebted or failing, notwithstanding such slaves, goods or chattels, shall be comprised in any deed or mortgage. *c*

What may be distrained for taxes, levies, &c.

XXXIII. IF the owner thereof shall not pay such tax, levy, fine, forfeiture, or amercement, within five days after such distress, such Sheriff or Collector shall and may lawfully sell the same, or so much thereof as shall be sufficient to discharge the said taxes, and the charges of distress and sale, for ready money; which sale shall be good and effectual in Law, against all persons whatsoever. *c*

When goods distrained may be sold.

XXXIV. THE Sheriff or Collector of the taxes within this Commonwealth, shall at the time he returns a list of other Insolvents, return a list of the lands within his County, or Corporation, where he cannot find effects within the same, belonging to the Owner or Tenant thereof, sufficient to pay and satisfy the tax; and if the Court shall be satisfied of the truth thereof, they shall admit the Sheriff or Collector to make oath thereto, and direct the same to be certified to the Auditor of public accounts, together with the names of the Owners of each tract of land, and the place of his or her abode, where the Court can obtain such information. The Auditor shall credit the same in account for the land tax, with such Sheriff or Collector. And where it shall appear to the Auditor from the certificates of the County Courts, or where he shall be satisfied from any other information, that any person so chargeable with any of the said taxes resides, or hath any slaves or personal property in some other County of this Commonwealth, than that in which such land may lie, he shall certify the amount of the land tax with which such person is or shall be chargeable, to the Sheriff or Collector of the County in which such person may reside, or have slaves or personal property, (as the case may be) and shall debit such Sheriff or Collector with the amount of the taxes so transmitted to him, who may make distress for the same, and shall be accountable therefor, in like manner as for other taxes of his County. A list of these Insolvents, with the amount of the tax due from them respectively, shall be furnished by the Clerk of the Court to the Collector of the tax for the succeeding year, and he shall transmit a copy thereof to the Auditor of public accounts, who shall debit the Sheriff or Collector therewith; and such Sheriff or Collector shall distrain and account for the same, in like manner as for other taxes, and in case the said taxes cannot be collected the succeeding year, the like return upon oath shall be made, as is herein before prescribed; and thereupon the Treasurer shall cause to be inserted in the *Virginia Gazette*, for three weeks successively, the names of such delin-

How the taxes on lands are to be collected when the sheriff cannot find effects on the same to pay the tax thereon.

When lands shall be forfeited for the non-payment of taxes. How a title thereto may be acquired.

Saving the rights of infants, femes covert, or lunatics.

Tenant paying the taxes may deduct it out of the rent, unless he is bound to pay it.

When the clerks of courts are to account for and pay taxes collected by them.

Repealing clause.

Proviso.

Commencement of this Act.

quents, with the quantity of land, the situation thereof, and the taxes due thereon. *a*

XXXV. IN case the tax on any tract of land within this Commonwealth, shall not be paid for the space of three years, the right to such lands shall be lost, forfeited and vested in the Commonwealth; and it shall be lawful for any person to acquire a title to any land so forfeited, in the manner prescribed by an act, intituled, "*An Act for reducing into one, the several Acts concerning the Land-Office; ascertaining the terms and manner of granting waste and unappropriated lands, for settling the titles and bounds of lands; directing the mode of proceffioning, and prescribing the duty of Surveyors.*" *a*

XXXVI. PROVIDED always, That nothing herein contained shall affect the right of infants, *femes covert*, or persons of unsound mind, who shall be allowed three years to save the same from forfeiture, after such disability be removed. *a*

XXXVII. AND where any Tenant shall be distrained for the taxes due from the proprietor of the land, he shall have credit for the same against such proprietor out of the rents he may owe him; but this Act shall not be construed to destroy or impair any contract, by which the Tenant may be bound to pay the said land tax, or any part thereof. *a*

XXXVIII. THE Clerks of the several Courts within this Commonwealth, shall, respectively, on or before the first day of *April*, and first day of *October* in every year, account for on oath, and pay into the public treasury, all the monies which by Law they shall be authorised to receive on public account, after a deduction of five *per centum* therefrom, as a commission. And in case of fraud herein by any Clerk, he shall on conviction thereof be deprived of his office. *a*

XXIX. ALL and every Act and Acts, clauses and parts of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing herein contained, shall prevent the collection and recovery of any arrearages of taxes due before the commencement of this Act, but such arrearages shall be collected, paid, and distrained for, and recovery had against all delinquents, and the damages on failure of payment thereof, shall be the same as if this Act had not been made.

XL. THIS Act shall commence in force, from and after the passing thereof.

CHAP. LXXXIV.

An Act to reduce into one, the several Acts concerning the Recovery of Debts due to the Public, and the Sale of Lands for Judgments on behalf of the Commonwealth, against Public Officers.

[Passed the 30th of November, 1792.]

Mode of proceeding against persons misapplying money received from the Treasury for public use.

Against persons contracting to supply the army, &c. for breach of contract.

I. **B**E it enacted by the General Assembly, That when any person who hath received, or shall receive public money from the Treasurer for public use, hath not applied, or shall not apply the said money accordingly, or hath neglected, or shall neglect to account for and repay so much thereof as shall remain unapplied, upon a motion on behalf of the Commonwealth, made to any Court of Record, notice thereof in writing having been given ten days or more to the delinquent, with a state of the matter alledged against him, either by delivering copies of such notice and allegation to him, or leaving them at the place of his usual abode, the said Court may give judgment and award execution against him and his sureties, for so much as a Jury, to be impannelled instantly, unless good cause be shewn for deferring it, for trial of an issue, if he appear and make it up, or for enquiry of damages, if he appear not, or appearing, refuse to make up such issue, shall find to be due from him, on any such account as aforesaid, with damages to be assessed by the Jury, and costs. *b*

II. WHEN the Attorney prosecuting on behalf of the Commonwealth, shall commence an action for breach of a contract, which hath been, or shall be entered into with government, or with an agent thereof, to supply the army or navy with provision or other articles, at the emanation of the writ, he shall file a declaration, with an assignment of the breaches, which with the writ shall be delivered to the officer, to whom that is directed, and served upon the Defendant fifteen days or more before the return day; and on such return day, or on the return day of the subsequent process, in case the preceding be not legally

(a) 1790, *ib.* 5, *sec.* 1, 2, 3, 4, 5, 6, 7. (b) Taken from 1786, *ib.* 61.

served, if the Defendant appear and make up an issue, or if he appear not, or appearing, refuse to make up such issue, a Jury shall be impannelled instantly, unless good cause be shewn for deferring it, to try the issue, or enquire of damages. And in like cases, the agents or contractors of the United States of America, may, by the like remedy, on behalf and in the name of the said States, recover money due to them.

The same remedy extended to the United States.

III. AND whereas divers persons have, and hereafter may enter into contracts with the agents or contractors, for victualling and cloathing the army and navy, and have or may fail, or refuse to comply therewith: *Be it further enacted*, That upon any suit being brought by any victualler, agent, or contractor, against any person or persons so failing or refusing, the proceedings therein shall be the same, and the Plaintiff shall have the same remedy and redress, as is herein before directed, in suits which may be brought on behalf of the Commonwealth. *a*

And to public contractors against persons contracting with them.

IV. IT shall and may be lawful for the General Court to give judgment with costs, at the motion of the Auditor, on ten days previous notice, against any person or persons indebted to the Commonwealth, by bond or other speciality, whether the same be taken in the name of the Governor or Treasurer, or any other person acting in a public character, for or on behalf of the Commonwealth, and also to give judgment for all bills of exchange and notes, and for the penalty of all bonds entered into by any person or persons, conditioned for the rendering accounts, or other duties. *b*

Mode of proceeding against persons indebted to the public, by bond, bill, note, &c.

V. WHERE any person or persons have been, are, or may hereafter be indebted to the Commonwealth, either in specie or other articles, collected or otherwise received, for or on behalf of the Commonwealth, and such person or persons, on a settlement with the Auditor, have obtained a *quietus*, and where judgment hath been, or may be obtained in favor of the Commonwealth, and the amount thereof adjusted and discharged, either before or after the issuing of the execution, whereby a *quietus* may have been or shall hereafter be obtained, by the party or parties, and it shall afterwards appear that an error or mistake had been committed to the prejudice of the Commonwealth, in the settlement of such account, judgment, or execution, in all or any of these cases, it shall and may be lawful for the General Court, to give judgment on motion, with ten days previous notice, for the amount of such error or mistake, without interest or damages thereupon, the same being proved to the satisfaction of the Court. *b*

Against a public debtor where an error in his favour is discovered in any adjusted account.

VI. AND when it shall appear after settlement, that by error or mistake any person shall or may have paid more to the Commonwealth than was really due, such person shall have the same remedy by motion with notice, against the Auditor, as is by this Act given to the Commonwealth. *b*

The like remedy to him if he has overpaid.

VII. IF any Sheriff or Collector of the public taxes, shall fail to account for and pay into the Public Treasury, the taxes by him received, in manner and at the time prescribed by Law, every such delinquent Sheriff or Collector, shall be liable to a judgment against him on motion, to be made by the Auditor, or other person appointed for that purpose, at the November General Court, or any subsequent Court after such failure, for the amount of the taxes due, and five *per centum* damages, together with an interest of five *per centum per annum*, upon the whole amount, until paid, for the use of the Commonwealth, and thereupon execution shall issue; provided the party has ten days previous notice of the day on which such motion is to be made. *c*

Against sheriffs who fail to account for public taxes.

VIII. NO petition or petitions shall in future be received from any Sheriff or Collector of the Public Revenue, or their security or securities, or from any person or persons directly or indirectly in their behalf, unless such Sheriff or Collector shall previous to such application, advertise at the door of his Court-house, on one Court day at least, a list of the persons in arrears for taxes, in his County, together with the balances due from such persons respectively, making oath to the same before the Court of the County in which he or they respectively reside, which oath shall be committed to record and list filed in the Clerk's office; and the said Sheriff or Collector shall produce an attested copy of such advertisement, together with copies of the list and certificate aforesaid, signed by the Clerk of his or their respective County Courts.

Regulation respecting petitions from delinquent sheriffs.

IX. LANDS and tenements shall and may, by virtue of writs of *fieri facias*, be taken and sold in satisfaction of all judgments which have been obtained af-

Lands of public collectors and their securities.

may be sold to discharge the commonwealth's judgments against them in certain cases.

Proviso in favour of securities in certain cases.

Land bound from the date of the judgment.

Notice of the time and place of sale, how to be given.

Debtor having several parcels of land may direct which shall be sold.

Sale how to be made.

Where the estate cannot be sold for three-fourths of its value, the officer may sell upon three months credit.

Proceedings on the bonds taken in pursuance of this act.

Conveyances to be made by the officer to the purchaser at his costs.

ter the seventh day of *January*, one thousand seven hundred and eighty-eight, or may be obtained hereafter, on behalf of the Commonwealth, against any Sheriff, Coroner, or other public Collector, or against his or their security or securities: *Provided*, that the same shall not extend to any such security or securities, who shall have become so before the said seventh day of *January*, one thousand seven hundred and eighty eight. *a*

X. EVERY judgment obtained against any Sheriff, Coroner, or other public Collector, shall bind the property of the lands and tenements of such public debtor, from the date thereof. *a*

XI. WHEN the goods and chattels taken in execution to satisfy a judgment of the Commonwealth by virtue of a *feri facias*, shall not, in the opinion of the Officer levying the same, be sufficient to satisfy the debt with damages and costs, the Sheriff or other Officer shall, at the same time, give public notice at the Churches and Meeting-houses, if any there be, and Court-house of his County at the next Court day, and shall moreover give notice to the owner, if he be in the County, or otherwise to his agent, if any such be known, at some time appointed in the notice, not less than ninety, nor more than ninety-six days from the time of levying the execution, that the said lands and tenements will be exposed to sale by auction on the premises, or at such other place in the County as the owner shall by writing under his hand delivered to the Officer, direct. *a*

XII. IF the public debtor against whom a judgment hath been entered subsequent to the said seventh day of *January*, one thousand seven hundred and eighty-eight, or shall be hereafter entered, have several parcels of land which lie in one and the same County, he or his agent may by writing under his hand at any time before the day of sale, require the Sheriff or Officer to whom a writ of *feri facias* upon the judgment shall be directed, to make the debt or damages and costs of such of the said parcels of land as the owner or his agent shall think proper; and if the parcels lie in different Counties, the Clerk shall and may at the like request in writing, direct the *feri facias* to the Sheriff or Officer of any County which the party or his agent, making oath or solemn affirmation that he hath lands there, shall particularly mention, at any time before the writ shall be delivered to the Officer. And if the debt, damages, and costs be made of any other parcel of land, or of lands lying in any other County than that mentioned in such written requisition, the sale of such other parcel of the land in such other County shall be void. *a* †

XIII. IF the owner of the land before or at the day of the sale, shall not make payment of the debt due to the Public, the Sheriff or Officer shall proceed to sell the said lands and tenements, or such estate and interest as the party convicted shall have therein, or so much thereof as will be sufficient, laid off in one entire parcel, if it may be done, in such place and manner as he or his agent, if he think proper, shall direct, for ready money, or other property, as the demand may be, and the costs: But if the estate cannot be sold for three-fourths of its value, in the opinion of the valuers of the County, or in the opinion of such other person as may be by Law directed, he shall sell the same upon three months credit, taking bond of the purchasers, with sufficient surety or sureties for the payment, to the Chief Magistrate of this Commonwealth for the time being. *a*

XIV. EVERY bond thus taken, shall mention on what occasion the same was taken, and shall by the Sheriff or Officer be immediately returned to the Clerk's office from whence it issued, there safely to be kept, and when due, execution thereon may be awarded in the same manner, and on the same conditions that executions are now awarded on replevy bonds, and shall in like manner be indorsed by the Clerk, "that no security is to be taken." *a*

XV. IN all sales of lands by virtue of an execution, the Sheriff or other Officer shall convey the same to the purchaser at his costs, by deed in writing, sealed, and recorded as the Laws direct for other conveyances of land: which deed shall recite the execution, purchase, and consideration, and shall be effectual for passing to the purchaser all the estate and interest which the debtor had, and might lawfully part with in the lands. *Provided nevertheless*, that if any Sheriff or other Officer who may have made sale of lands by virtue of any execution to him directed, on the part of the Commonwealth should die, or remove out of the State, before deeds made in conformity to such sale or sales,

(a) 178), ch. 40, sec. 1, 2, 3, 4. See sec. 17, 2, 3. † See acts of 1791, pa. 22, sec. 3—this section altered.

then it shall and may be lawful for the next succeeding Sheriff or other Officer, to convey the same to the purchaser or purchasers thereof, in as full and ample manner as his predecessor in office might or should have done.

XVI. IF the lands and tenements, goods and chattels, of any Sheriff, Coroner, or other public Collector, are insufficient to satisfy the debt, damages, and costs, due to the Public, judgment shall be obtained against his security or securities in the same summary way that judgment may by Law be obtained against his or their principal, and the lands and tenements, goods and chattels of such security or securities, except as before excepted, shall be taken in execution to satisfy the balance of such debt, damages, and costs, in the same manner as the lands and tenements, goods and chattels of his or their principal, may be taken and sold agreeable to this Act. *a*

Proceedings against the securities of public collectors.

XVII. IN every writ of *feri facias* upon judgments which have been obtained subsequent to the said seventh day of January, one thousand seven hundred and eighty eight, or hereafter to be obtained by the Commonwealth, against any Sheriff, Coroner, or other public Collector, or the securities of them, or either of them, after the words, "We command you that of the" the Clerk from whose office such writ shall issue, shall insert the words "lands and tenements," and conform the subsequent part of such writ thereto. *b* †

Clerks to insert "lands and tenements" in executions against public collectors.

XVIII. WHERE the property of any Sheriff, Coroner, or other public Collector, or their securities, has been taken in execution to satisfy a judgment obtained by the Commonwealth, and the same was not sold for want of buyers, and return thereon hath been made to that effect, or where the property of any Sheriff, Coroner, or other Public Collector, or their securities, have been exposed to sale by virtue of any writ of *venditioni exponas*, to satisfy a judgment obtained by the Commonwealth, and could not be sold for want of buyers, and return hath been made to that effect, in either of the above cases, it shall and may be lawful for the Executive, and they are hereby authorized and required to direct the officer, to whom any subsequent process in either of the above cases ought to issue, provided such property cannot be sold agreeable to the directions of such subsequent process, to cause such property to be removed to such place in any adjacent County, as the Executive may direct, and there to be sold for money or government securities, on such terms, and in such proportions as they shall judge expedient: *Provided*, that if such property will not sell for three-fourths of its value, in the judgment of the valuers of the County, or in the judgment of such other person as may be by Law directed, where the sale shall be made, the Sheriff or other Officer shall sell the same on three months credit, and shall take bonds in the same manner, and the like proceedings shall be had thereon, as is herein before directed, in cases of bonds taken on the sale of lands and tenements sold by virtue of this Act. *c*

Executive may direct property of public collectors under execution heretofore served, to be removed to an adjacent county.

Provided

XIX. IN every case where any writ of *feri facias*, or *venditioni exponas* issues against the estate of a Sheriff on behalf of the Commonwealth, if by Law the same ought to be directed to a Sheriff, such writ or writs shall be executed by the High Sheriff. *d*

Executions against sheriffs to be served by the high sheriffs.

XX. IN like manner where any writ of *feri facias*, or *venditioni exponas* shall hereafter issue at the instance of the Commonwealth, against the estate of any Sheriff, Coroner, or other Public Collector, or their securities, and the goods and chattels of such debtor cannot be sold for want of buyers, the Executive shall direct the property to be removed and sold as above directed, in cases of such Sheriffs, Coroners, Public Collectors, and securities, whose property has not been sold for want of buyers. *d*

Executive may direct the property of public collector under execution, to be removed to an adjacent county.

XXI. IT shall be the duty of the Auditor forthwith to acquaint the Executive when their interposition is, or hereafter may become necessary, to the carrying this Act into effect. *d*

To be informed when their interposition is necessary.

XXII. THE Auditor, immediately on the return of any process which he shall suspect was fraudulently executed, shall give notice thereof to the Executive, whose duty it shall be to direct the Attorney of the Commonwealth for such District, County, or Corporation, to file an information thereupon, in which like proceedings shall be had as in other cases of information; and if it shall appear that such sale was fraudulently made, the property of any thing thus

And of process fraudulently served.

Fraudulent sales under such process to be void;

(a) 1787, ch. 40, sec. 6. (b) *Ib.* sec. 7. see last pa. sec. 9. † This clause seems only to contain a direction to the clerk as to the form of executions under the 9th sec. and does not extend to securities, who became so before the 7th Jan. 1788. (c) 1787, ch. 40, sec. 8. (d) 1787, ch. 40, sec. 9, 10.

and the officer disqualified for any office.

Summary remedy against collectors who have failed to give bond and security.

Expense attending removal of collectors property under execution, how to be defrayed.

Penalty on officers failing to serve or return executions.

For a false return.

For failing to pay money received under execution.

When executions may be directed to persons, other than the sheriffs.

Penalty on a deputy Sheriff failing to add the name of his principal to a return.

When the performance of a duty shall not bar

fraudulently sold, shall not be changed, but remain subject to the demand of the Commonwealth, and the Officer who executed such process, if he be concerned in such fraud, shall ever after be rendered incapable of being appointed to any office of honor or profit. *a*

XXIII. AND whereas Sheriffs and other Public Collectors in some instances have proceeded to collect the Public Revenue, without having entered into bond with security, for the faithful performance of that duty, which cannot be recovered from such Collectors, except by the tedious process of Law; For remedy thereof, *Be it enacted*, That every Sheriff, or other Public Collector, who may have attempted the collection of any of the different species of taxes in any County or Corporation in this State, shall be liable to a judgment and execution for the same sum, and in the same summary way, as if such Sheriff or other Public Collector had actually given security agreeable to Law. *a*

XXIV. IN all executions founded upon judgments, which were obtained prior to the seventh day of *January*, one thousand seven hundred and eighty-eight, where it may be necessary to remove any property by virtue of this Act, the extra expenses attending such process, shall be discharged by the Commonwealth; but in all executions upon judgments obtained after the day last mentioned, or hereafter to be obtained, such additional expenses shall be paid by the owner of the property, and taxed in the costs of the prosecution. *a*

XXV. ALL Sheriffs, Coroners, or other persons authorized to levy executions of any kind on behalf of the Commonwealth, and failing to do according to Law, or withholding any such execution for any longer time than one month after the return day, shall forfeit and pay to the Commonwealth, at the rate of fifteen *per centum per annum*, on the amount of such execution, to be computed from the return day thereof, until such execution be actually returned. *b*

XXVI. AND any Officer as aforesaid, who shall make a false return on any such execution, shall forfeit and pay twenty-five *per centum* on the amount of such execution. *b*

XXVII. AND in case any Sheriff, Coroner, or other Officer, shall levy on behalf of the Commonwealth, any execution, and shall return the same as satisfied, paid or discharged, or in any other words, form or manner, which shall entitle the debtor to a credit therefor, either wholly or in part, and shall fail to pay the amount of such credit within one month after the return day of such execution, or other process, then such Sheriff or other officer so failing, shall forfeit and pay to the Commonwealth, double the damages, and double the interest, to which the debtor, against whom the said execution may have issued, was subject, to commence and accrue on the return day of such execution, and to continue until payment be made into the Treasury; and in all such cases where no damages are expressed, but interest only is required by the said execution from the debtor, the Sheriff or other Officer failing to pay to the Treasurer within one month after the return day of such execution, shall forfeit and pay at and after the rate of twenty *per centum per annum* on the amount. *b*

XXVIII. UPON all executions of *fiery facias* already issued, or hereafter to be issued, and which shall have been, or shall be levied, but not discharged, whereby subsequent process is necessary to be issued, every such subsequent process, may at the discretion of the Auditor be directed to such person, specially by name, as was High Sheriff at the time of levying the former execution, who shall proceed in the execution of such subsequent process, until the debt be fully paid, notwithstanding such person's time as Sheriff of the County be expired. *b*

XXIX. AND all and every Deputy Sheriff levying any execution for, or on behalf of the Commonwealth, shall, on failing to sign in addition to his own name, the name of the High Sheriff under whom he acts, be subject to the same fine as is hereby inflicted for withholding an execution, to continue until such return be amended by the addition of the High Sheriff's name, or the amount of such execution be actually paid; and in case of inability in any Deputy Sheriff to pay such fine, the same may be recovered of the High Sheriff, which he may hereafter recover of such Deputy, by motion in the Court of his County, on giving ten days previous notice to the Deputy so failing. *b*

XXX. NO compliance with such duties as are by this Act prescribed, after the respective periods assigned for performance, and notice given of an in-

tended motion as herein after is mentioned, shall bar a recovery of the fines and forfeitures. *a*

XXXI. IN all cases of *ieri facias* not levied, by reason that the effects in a public debtor's possession cannot be taken in consequence of any previous *bona fide* execution, mortgage, deed of trust, or any other conveyance or incumbrance whatsoever, the Sheriff holding such execution, shall set forth in his return fully and explicitly the nature of the conveyance and incumbrance, under which a claim is set up, and in what Court the same be recorded, and if by virtue of executions, the names of the persons at whose instance such executions issued, the amount of each, and from what Court they were issued, in order that the Auditor may institute such proceedings, as the Attorney General may direct against all persons concerned, in order to have their claims or demands fully ascertained; and all Courts wherein such proceedings shall or may be instituted, are hereby authorized to give the preference in hearing all such cases before others of any kind or nature soever, and to quicken the same by such rules as to them shall seem expedient. *a*

XXXII. IF any person shall attempt to stop, interrupt, or injure the sale of the estate of any public debtor, taken by virtue of an execution, by any fraudulent execution, conveyance or incumbrance whatsoever, he shall forfeit to the Commonwealth the sum of three hundred dollars. *a*

XXXIII. ALL fines and forfeitures inflicted by this Act, shall be recovered by the Auditor on behalf of the Commonwealth, by motion in the General Court with costs, on giving ten days previous notice. *Provided always*, that upon a prosecution instituted for any fine or forfeiture inflicted by this Act, a Jury shall be impanelled to try the facts, if it shall be desired by the party prosecuted. *a*

XXXIV. THE Defendant or parties against whom judgment may have been obtained for any such fine or forfeiture, may, on application to the Governor and Council, obtain a remission either of the whole or part, as to the Governor, with advice of Council, may seem reasonable and proper. *a* †

XXXV. ALL and every Act and Acts, clauses and parts of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act, shall in any wise extend to or affect, any duty, fine, forfeiture, penalty, or remedy of, for, or concerning any matter or thing before the commencement of this Act.

XXXVI. THIS Act shall commence and be in force, from and after the passing thereof.

the recovery of a fine already incurred.

Method of proceeding where the property of a public debtor is under any lien or incumbrance.

Penalty for interrupting the sale of any public debtor's estate.

Fines and forfeitures, how to be recovered.

Remission of them how to be obtained.

Former acts repealed.

Commencement of this act.

CHAP. LXXXV.

An Act to reduce into one, the several Acts concerning the Auditor and Treasurer.

[Passed the 15th of December, 1792.]

I. **B**E it enacted by the General Assembly, That there shall be one Auditor for public accounts, to be chosen from time to time, as a vacancy may happen, by joint ballot of both Houses of Assembly, and to continue in office until removed by the joint vote of both the said Houses, or by the Executive during the recess of the Assembly. And where any person so appointed, shall refuse to act, shall resign, or die during the recess of Assembly, it shall be lawful for the Governor, with the advice of the Council of State, to appoint some other fit and able person to act in his stead, until the next meeting of the General Assembly. The Auditor so appointed, shall not be capable of acting until he shall have taken the oath of fidelity to the Commonwealth, and also an oath impartially, and honestly to execute the duties of his office; which oath shall be taken before the Judge of the High Court of Chancery, or either of the Judges of the General Court, and by him shall be certified to his next succeeding Court, and entered of Record. The Auditor now in office by former appointment, is hereby continued therein. *b*

II. IT shall be the duty of the Auditor, assisted by so many Clerks as the Executive may think necessary, to examine, state, settle, and audit all accounts,

Auditor, how appointed, qualified, and removable.

His duty. To be assisted by as ma-

(*a*) 1789, *ch. 42, sec. 6, 7, 8, 9, 10.* † *This clause amended, post, ch. 181. By act of sess. 1800, ch. 59, the Executive prohibited from remitting any fine, unless by law they be allowed to do so.* (*b*) Oct. 1778, *ch. 17.* March 1781, *ch. 2.* 1785, *ch. 45, 47.* 1786, *ch. 33.*

no clerks as the Executive may think necessary.

claims or demands whatsoever, against the public, arising under any Law or Resolution of the General Assembly; and to grant to every public claimant, authorized by Law to demand the same, a warrant on the Treasurer, for the sum due, signed with his own hand and name, and attested in the hand and name of one of his Clerks, making due entry and register of all his daily proceedings in books for that purpose, and carefully arranging, filing and preserving in his office, all accounts, receipts, vouchers, and papers, touching the same. The Auditor on the last day of *September* in every year, shall transfer the balances to a new account, to be annually opened by him on the first day of *October*. There shall also be an account stated against the Treasurer of the Commonwealth *a*

To proceed against public debtors.

III. IT shall be the duty of the Auditor, to call upon and proceed against all public debtors, for the balances due to the Public. *b*

In what manner.

IV. IT shall and may be lawful for the Auditor on behalf of the Commonwealth, to move for judgments on any day during the sitting of the General Court, against any person or persons indebted to the Public, and against any person or persons indebted to the Public by duty bonds; in the General Court, or County Court of Henrico, on giving ten days previous notice thereof, and thereupon to issue executions, and send the same to the proper Officer; the charges of giving which notice, being first paid by the Public, shall be recovered of the person against whom such execution issued, in the same Court, and in the same manner, as debts due to the Public are allowed to be recovered; and on such executions, the Clerk shall endorse "No security to be taken." *c*

To give bond and security for the faithful discharge of his office.

V. ANY person hereafter appointed Auditor, shall give bond with such security as shall be approved by the Governor, with the advice of Council, in the sum of thirty thousand dollars, payable to the said Governor, or his successors, in trust, for the use of the Commonwealth, conditioned for the faithful discharge of the duties of his office; which bond shall be recorded in the General Court. *d*

Persons aggrieved by it is disallowing or abating any claim, how redressed.

VI. WHERE the Auditor acting according to his direction[†] and judgment, shall disallow, or abate any article of demand against the Commonwealth, and any person shall think himself aggrieved thereby, he shall be at liberty to petition the High Court of Chancery, or the District Court, holden at the City of *Richmond*, according to the nature of his case, for redress, and such Court shall proceed to do right thereon; and a like petition shall be allowed in all other cases, to any other person who is entitled to demand against the Commonwealth, any right in Law or Equity. *e*

The chief clerk to act in case of sickness of the auditor.

VII. THE chief Clerk of the Auditor, shall, in case of the sickness of the Auditor, perform the duties of his office. *f*

Treasurer, his continuance in office.

VIII. THE public Treasurer may continue in office without re-election, until the end of the Session of General Assembly, next after one year from the time of his appointment shall have expired. On his first election, before he shall have power to act, he shall give bond to the Governor, with securities, to be approved by the Council of State, in the penalty of one million of dollars, payable to the Commonwealth, with condition, that he will faithfully account for all monies and other things which shall come to his hands in virtue of his office, and perform all other duties thereof; and shall take an oath to the same purpose, and give assurance of fidelity to the Commonwealth, before some Court of Record, or before a Judge or Justice thereof; the administration of which oaths, or the certificate thereof, shall be recorded in such Court. *g*

How qualified.

IX. WHEN the office shall become vacant, during the recess of the General Assembly, the Governor, with the advice of the Council of State, shall appoint a successor to act, until such time as he, or another shall be legally elected. *g*

Vacancy during the recess of the assembly to be supplied by the Executive.

How the treasurer in office shall proceed against his predecessor for the balance which may be due from him to the public.

X. UPON a motion made to the General Court, by a succeeding Treasurer, on behalf of the Commonwealth, whereof more than ten days notice in writing shall have been given to the Obligors, judgment may be awarded for the penalty of the said bonds, to be discharged by payment of so much, as a jury, to be impanelled instantly, for trial of the issue, if an issue be joined, or to enquire of damages, if the Defendants make default, shall find to be due by breach of the condition aforesaid, with costs. *g*

(a) Oct. '78, ch. 17. '86, ch. 33, sec. 9, 5. (b) '85, ch. 45, sec. 3. '91, ch. 10, sec. 1. (c) Oct. '78, ch. 17. '85, ch. 15. '86, ch. 19. (d) 1786, ch. 33, sec. 4. (e) Oct. '78, ch. 17. (f) 1786, ch. 33, sec. 9. (g) 1785, ch. 57. [†] "Discretion," in the original law.

XI. THE Treasurer, in books provided at the public expense, shall state the accounts of money by him received for public taxes, and impositions, and paid in pursuance of Acts and votes of the General Assembly, in such a manner as that the nett produce of the whole revenue, as well as of every branch thereof, and the amount of disbursements, in discharge of the several demands, may distinctly appear, and lay the said accounts from time to time, and all his other transactions, before the General Assembly: And if he divert or misapply any of the public treasure, being convicted thereof, upon such prosecution as is before prescribed, he shall not only be adjudged to pay double the money so found to have been diverted or misapplied, to the use of the Commonwealth, but shall thereby be rendered incapable of any office of public trust. *a*

How he shall keep his accounts.

XII. THE Treasurer shall be allowed as many Clerks as the Executive shall judge necessary.

Penalty for misapplying public money.

His clerks.

XIII. IT shall not be lawful for the Treasurer to pay or receive any money on account of the Public, but on warrant or certificate from the Auditor, unless in cases where any future Act of Assembly shall in express words, and not by inference or implication only, declare that in that particular case it is to be understood as the intention, that the claim specified by such Act, shall not be audited in the regular course; save only, that the salary of the said Auditor, together with the accounts for the expenses of the office for fuel, blank books, paper, presses for the preservation of the books and papers, and other implements necessary for the use of the office, shall be examined and certified for payment to the Treasurer by the Governor and Council.

Not to pay or receive money but on warrant or certificate from the auditor.
Exception.

XIV. THE Executive shall have the controul and superintendence of the Auditor's and Treasurer's offices respectively, as the same are now established by this Act, with power to remove the Auditor for misbehaviour or neglect of duty, and to supply any vacancy in the said office, during the recess of Assembly, subject to their approbation. A committee of the Executive to be by them appointed, shall also have power, and is required, that proper checks may be provided, to visit and examine the said offices once in three months at least, or oftener, and shall report to the Governor in writing, under their hands, the situation of the same, the state of the books and papers to the said offices belonging, and what charges† or additions shall in their judgment be proper for conducting the business; which report shall be by him laid before the Board, and entered in their proceedings; and thereupon it shall be lawful for the Executive to direct such correspondent changes in the business of the said offices, as they shall deem necessary for the better conducting the same. *b*

The Auditor's & Treasurer's offices to be under the controul of the Executive.

XV. ALL instructions by the Executive in pursuance of the powers hereby vested in them, shall be executed, any law to the contrary notwithstanding.

XVI. THE Treasurer for the time being shall have a right to vote according to the number of shares which this Commonwealth holds in *Potowmac, James River, and Disfmal Swamp Canal Companies*, in person, or by proxy, appointed by him, at the meetings of the said companies, and shall receive the proportion of the toils which shall from time to time become due to this state, from the shares aforesaid. *c*

The Treasurer to represent the Commonwealth in the Potowmac, James river, and Disfmal Swamp Canal companies.

XVII. ALL and every Act and Acts, clause and clauses of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Repealing clause.

XVIII. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. LXXXVI.

An Act for reducing into one, the several Acts concerning the Land-Office; ascertaining the Terms and Manner of granting waste and unappropriated Lands; for settling the Titles and Bounds of Lands; directing the Mode of Proceßioning, and prescribing the Duty of Surveyors.†

[Passed the 17th of December, 1792.]

I. **B**E it enacted; That all grants of lands shall issue from the Land-Office, in manner and form herein after mentioned:

Grants of lands to issue from the land-office.

II. A REGISTER of the said Land-Office shall be appointed from time to time by joint ballot of both Houses of Assembly, who shall give bond with suf-

Register how appointed and qualified.

(a) 1785, ch. 57. (b) 1785, ch. 45, sec. 5. '89, ch. 47. (c) From Oct.

'84, ch. 58 and 82. '91, ch. 21. † See acts of 1795, ch. 9, and 1796, ch. 24.

† "Changes," in the original law.

sufficient security to the Governor or first Magistrate of this Commonwealth, in the penalty of ten thousand dollars; shall hold his office during good behaviour, and shall have power to appoint a Deputy and Clerks to assist in executing the business of the said Office, but shall nevertheless reside there himself. *a*

III. IF any vacancy shall happen by the death, resignation, removal, or other legal disability of a Register, during the recess of the General Assembly, the Governor, or first Magistrate of the Commonwealth, by and with the advice of the Council, may appoint some other person, giving bond and security in like manner, to act as Register of the said Office, until the end of the next Session of Assembly. *a*

IV. ALL copies of the Records, and other papers now being, or which shall hereafter be in the said Office, including those which have been removed from the Office of the late Proprietor of the *Northern Neck*, duly attested by such Register, shall be as good evidence as the originals would be. *a*

V. *AND be it enacted*, That any person may acquire title to so much waste and unappropriated land lying within this Commonwealth, as he shall desire to purchase, on paying the consideration of two dollars for every hundred acres; which consideration may be paid in specie, or in Auditor's warrants, or audited certificates, and so in proportion for a greater or smaller quantity, and obtaining certificate from the Auditor of public accounts in the following manner: The consideration money shall be paid into the hands of the Treasurer, who shall give to the purchaser a receipt for the payment, specifying the purpose it was made for; which being delivered to the Auditor, he shall give to such person a certificate thereof, with the quantity of land he or she is entitled to, and, upon lodging the same in the Land-Office, the Register thereof shall grant to such person or persons, his or their heirs or assigns, a printed warrant under his hand, and the seal of his Office, specifying the quantity of land, and the rights upon which it is due, authorising any Surveyor, duly qualified according to Law, to lay off and survey the same, and shall regularly enter and record in the books of his Office, all such certificates, and the warrants issued thereupon, which warrants shall be always good and valid until executed by actual survey, or exchanged in the manner herein after directed: *Provided always*, That no warrant shall issue to be located on any lands which may vest in the Commonwealth on account of the non-payment of the taxes thereon, unless the person applying for the same shall pay in consideration thereof at the rate of one hundred dollars for every hundred acres; and, for the better direction of the Surveyors, the Register shall express in the warrant what sum was paid therefor. *b*

VI. *PROVIDED also*, That all unappropriated lands on the bay of *Chesapeake*, on the sea shore, or on the shores of any river or creek, and the bed of any river or creek in the Eastern parts of this Commonwealth, which have remained ungranted by the former government, and which have been used as a common to all the good people thereof, shall be, and the same are hereby excepted out of this Act; and no grant issued by the Register of the Land-Office for the same, either in consequence of any survey already made, or which may hereafter be made, shall be valid or effectual in Law to pass any estate or interest therein. *c*

VII. EVERY person who shall hereafter desire to become a Surveyor, shall be nominated by the Court of his County, examined, and certified able by the President and Professors of *William and Mary College*, and if of good character, commissioned by the Governor, with a reservation in such commission to the said Professors, for the use of the College, of one sixth part of the legal fees that shall be received by such Surveyor; for the yearly payment of which, he shall give bond with sufficient security to the President and Masters of the said College; he shall hold his Office during good behaviour, and before he shall be capable of entering upon the execution of his Office, shall before the Court of the same County, take an oath, and give bond, with two sufficient securities, to the Governor and his successors, in such sum as he, with advice of Council, shall have directed, for the faithful execution of his Office. *d*

VIII. ALL Deputy-Surveyors shall be recommended by their principals to the Court of the County, of which such principal may be Surveyor; the Court shall thereupon appoint and direct one or more fit persons, to examine into the capacity, ability, and fitness of the person or persons so recommended; and

(a) May '79, ch. 13, sec. 1. (b) 1785, ch. 42. (c) From May '80, ch. 2. + By act of Dec. sess. 1801, ch. 7, pa. 10, grants for beds of rivers in western parts of State, declared void. (d) Oct. '83, ch. 32, sec. 1.

Copies attested by him as good evidence as the originals.

Title to waste lands, how to be acquired.

Consideration money for waste lands.

Warrants for surveys.

Consideration money for lands forfeited for non-payment of taxes.

Certain lands reserved as a common, and grants thereof declared void.

Surveyors how examined and commissioned.

One sixth of their fees appropriated to the college of William & Mary. Tenure of office. How qualified.

Their deputies how appointed.

upon a certificate of such examination, and report of the capacity, ability, and fitness of the person or persons so recommended, the said Court is hereby empowered and directed to appoint him or them to act as deputy or deputies, for whose conduct, in every respect touching his Office, the principal Surveyor shall be answerable; and all deputies so appointed, shall have power and authority to act and do in all things, and to every intent and purpose, as the principal Surveyor, except in cases otherwise provided by this Act; and shall thereupon be entitled to one half the fees received for services performed by them respectively, after deducting the proportion thereof due to the College. If any principal Surveyor shall fail to nominate a sufficient number of deputies to perform the services of his Office in due time, the Court of the County shall direct what number he shall nominate; and in case of failure, shall nominate for him. And if any Deputy-Surveyor, or any other on his behalf, and with his privity, shall pay or agree to pay any greater part of the profits of his Office, sum of money in gross, or other valuable consideration to his principal, for his recommendation or interest in procuring the deputation, such deputy and principal shall be thereby rendered forever incapable of serving in such Office: *Provided always*, That any Deputy-Surveyor shall be removeable from Office, at the discretion of his principal. *a*

Their power and reward.

Penalty for giving the principal more.

How removable.

IX. EVERY Surveyor of lands, shall hereafter be resident in the County whereof he is Surveyor, during the time he shall continue in office, under the penalty of forfeiting six hundred dollars for every month he shall reside out of the same, unless detained by such business as the Court of the County shall judge reasonable; one moiety shall be to the Commonwealth, for the better support of this government and the contingent charges thereof, and the other moiety to the informer. *b*

Surveyors to reside in the counties wherein they are appointed.

X. WHERE any person shall hold a warrant from the Land-Office, or be desirous to make an entry in any County on the Eastern waters, for vacant and unappropriated land, and there shall be no Surveyor qualified to act in such County, then it shall and may be lawful for such person to make such entry with the Clerk of the County Court, and the same surveyed by any legal Surveyor of the next or neighbouring County, shall be good and sufficient to enable such person to obtain a patent or grant for the same. *c*

How entries and surveys may be made on the Eastern waters where there is no surveyor.

XI. *PROVIDED always*, That the Surveyors of the Counties of *Monongalia*, *Harrison*, *Randolph*, and *Ohio*, shall not be accountable to the President and Masters of *William and Mary* College, for any part of the fees which have accrued to them for services subsequent to the first day of *January*, one thousand seven hundred and eighty-eight, or shall hereafter accrue; and the bonds given by them for the yearly payment of one sixth part of their fees to the President and Masters of the said College, shall be, and are hereby declared to be null and void, so far as relates to the fees which became due to them after the said first day of *January*, in the year last mentioned, or shall hereafter become due. *d*

Surveyors of certain counties not accountable to William and Mary College for the one sixth of their fees;

XII. *PROVIDED nevertheless*, That each of the Surveyors of the said Counties of *Monongalia*, *Harrison*, *Randolph*, and *Ohio*, hereafter to be appointed, shall, within one month after he shall be required by the Board of Trustees of the *Randolph* Academy, give bond with sufficient security, in a reasonable sum, for the yearly payment of one sixth part of the fees which he shall receive, to the said Trustees, for the use of the said Academy; and in case any one of the said Surveyors shall fail or refuse to give such bond and security, he shall forfeit and pay to the said Trustees, the sum of three hundred dollars annually, to be recovered by motion in the Court of the County of such Surveyor, upon giving him ten days previous notice of such motion. *e*

But to pay the same to the Randolph Academy.

XIII. EVERY person having a land warrant, and being desirous of locating the same on any particular waste and unappropriated lands, shall lodge such warrant with the chief Surveyor of the county wherein the said lands or the greater part of them lie, who shall give a receipt for it if required. The party shall direct the location thereof so specially and precisely, as that others may be enabled with certainty to locate other warrants on the adjacent residuum; which location shall bear date the day on which it shall be made, and shall be entered by the Surveyor in a book to be kept for that purpose, in which there shall be left no blank leaves or spaces between the different entries. *f*

Land warrants to be lodged with the principal surveyor.

Locations to be precisely made and entered in a book.

XIV. AND if several persons shall apply with their warrants at the office of any Surveyor at the same time, to make entries, they shall be preferred ac-

Preference where several applications to

(a) Oct. '83, ch. 32, sec. 1. (b) From Oct. '83, ch. 32, sec. 6. (c) Oct. 1782, ch. 33, sec. 1. (d) 1787, ch. 95, sec. 14. (e) Oct. '83, ch. 32, sec. 1.

locate the same land.

Notice of time of surveying to persons out of the county.

How a surveyor may locate his own warrants.

When and how surveys of located lands are to be made.

Variation of the magnetic needle to be expressed in plats of surveys.

Provide.

Penalty for failure how recoverable.

Surveyor may direct a deputy to survey.

Chain carriers to be sworn.

according to the priority of the dates of their warrants; but if such warrants be dated on the same day, the Surveyor shall settle the right of priority between such persons by lot. *a*

XV. AND every Surveyor shall, at the time of making entries for persons not being inhabitants of his County, appoint a time for surveying their land, and give notice thereof in writing to the persons making the same; and if on such application at his office, the Surveyor shall refuse to enter such location, under pretence of a prior entry for the same lands made by some other persons, he shall have a right to demand of the said Surveyor, a view of the original of such prior entry in his book, and also an attested copy of it. *a*

XVI. ANY chief Surveyor having a warrant for lands, and desirous to locate the same within his own County, shall enter such location with the Clerk of the County, who shall return the same to his next Court, to be there recorded; and the said Surveyor shall proceed to have the survey made as soon as may be, or within six months at farthest, by some one of his deputies, or if he hath no deputy, then by any Surveyor or Deputy-Surveyor of an adjacent County; and in case of failure, his entry shall be void, and the land liable to the entry of any other person. *a*

XVII. EVERY chief Surveyor shall proceed with all practicable dispatch, to survey all lands entered for in his office, and shall, if the party live within his County, either give him personal notice of the time at which he will attend to make such survey, or shall publish such notice, by fixing an advertisement thereof on the door of the Court-house of the County, on two several Court days; which time, so appointed, shall be at least one month after personal notice given, or after the last advertisement so published; and if the Surveyor shall accordingly attend, and the party, or some one for him, shall fail to appear at the time, with proper chain carriers, and a person to mark the lines, if necessary, his entry shall become void, the land thereafter subject to the entry of any other person, and the Surveyor shall return him the warrant, which may, notwithstanding, be located anew, upon any other waste or unappropriated lands, or again upon the same land, where it hath not in the mean time been entered for by another person. *a*

XVIII. AND whereas many inconveniences have arisen from the inattention of Surveyors to the variation of the magnetic needle, in re-surveying lands which were formerly surveyed, when the variation was very different from what it is now, and many mistakes and much confusion may arise in comparing future surveys with the present: For remedy whereof, *Be it enacted*, That every Surveyor shall, under the penalty of fifteen dollars, express and declare, in or on the plat and return of each survey, by him or them taken or made, the true quantity or degree of the variation aforesaid, and whether it be east or west. *b*

XIX. *PROVIDED* always, That when any Surveyor shall be called upon, or ordered to re-survey any lands, that may have been surveyed before the first day of *June*, in the year of our Lord, one thousand seven hundred and seventy-three, such Surveyor shall or may re-survey such lands, according to the mode of surveying by the magnetic meridian, but shall, nevertheless, under the penalty aforesaid, return and certify, in his plat, the quantity or degree of the variation of the magnetic needle from the true meridian, at the time of making such re-survey, and shall also, in the said plat and return, certify, (where the same can be done) the quantity or degree of variation between the original lines of such former survey, from the true meridian aforesaid. *b*

XX. THE penalty of fifteen dollars aforementioned, may be recovered by any person or persons who shall sustain any damage by the Surveyor's failing to comply with the directions aforesaid, who will inform or sue for the same, by action of debt, bill, plaint, or information, in any court of record within this Commonwealth. *b*

XXI. WHERE the chief Surveyor doth not mean to survey himself, he shall immediately after the entry made, direct a deputy surveyor to perform the duty, who shall proceed as is before directed in the case of the chief Surveyor. *c*

XXII. THE persons employed to carry the chain on any survey, shall be sworn by the Surveyor, whether principal or deputy, to measure justly and exactly, to the best of their abilities, and to deliver a true account thereof to such Surveyor, and shall be paid for their trouble by the party for whom the survey is made. *c*

XXIII. THE Surveyor, at the time of making the survey, shall not leave any open lines, but shall see the same bounded plainly by marked trees, except where a water course, or ancient marked line shall be the boundary, and shall make the breadth of each survey, at least one third of its length in every part, unless where such breadth shall be restrained on both sides by mountains unfit for cultivation, by water courses, or the bounds of lands before appropriated. *a*

Surveys to be closed, lines marked, and length and breadth proportioned. Exception.

XXIV. THE Surveyor shall, as soon as it can conveniently be done, and within three months at farthest after making the survey, deliver to his employer, or his order, a fair and true plat and certificate of such survey, the quantity contained, the hundred (where hundreds are established in the County) wherein it lies, the courses and descriptions of the several boundaries, natural and artificial, ancient and new, expressing the proper names of such natural boundaries, where they have any, and the name of every person whose former lines made a boundary, and also the nature of the warrant and rights on which such survey was made. *a*

Plats and certificates when to be delivered.

XXV. THE said plats and certificates shall be examined and tried by the said principal Surveyor, whether truly made and legally proportioned as to length and breadth, and shall be entered within three months at farthest, after the survey is made, in a book well bound, to be provided by the Court of his County at the County charge; and he shall, in the month of *July* every year, return to the President and Professors of *William and Mary* College, and also to the Clerk's Office of his County Court, a true list of all surveys made by him or his deputies in the preceding twelve months, with the names of the persons for whom they were respectively made, and the quantities contained in each, there to be recorded by such Clerk; and no person shall hereafter hold the Offices of Clerk of a County Court and Surveyor of a County, nor shall a deputy in either Office, act as deputy or chief in the other. *a*

To be examined and entered in the book of the principal surveyor.

Lists of surveys to be annually returned to the clerk of the county and to the college.

XXVI. ANY Surveyor, whether principal or deputy, failing in any of the duties aforesaid, shall be liable to be indicted in the Court of the District in which he shall reside, and punished by amercement or deprivation of his Office, and incapacity to take it again, at the discretion of a jury; and shall moreover, be liable to any party injured, for all damages he may sustain by such failure. *a*

No person to be clerk and surveyor of the same county.

How surveyors may be punished for neglect.

XXVII. EVERY County Court shall once in every year, and oftener if they see cause, appoint two or more capable persons to examine the books of entries and surveys in possession of their chief Surveyor, and to report in what order and condition the same are kept; and on his death, or removal, shall have power to take the same into their possession, and deliver them to the succeeding chief Surveyor. *a*

Their offices to be annually inspected.

XXVIII. IF any Surveyor, or other person who may be in possession of any such book of entries or surveys, shall refuse or neglect to produce such book to the persons, who by any Court may be appointed to examine the same, or to deliver up the same agreeable to the order of such Court to any chief Surveyor who has succeeded or may succeed any Surveyor, dead, or removed from Office, such Surveyor, or other person, shall, for every such refusal, or neglect, forfeit and pay the sum of thirty dollars; one half to the use of the County, and the other half to the use of the person suing for the same; to be recovered by action of debt, plaint, or information. *b*

Penalty on surveyors refusing to produce or deliver up their books when required by the court.

XXIX. AND for preventing hasty and surreptitious grants, and avoiding controversies and expensive law suits: *Be it enacted*, That no Surveyor shall, at any time within twelve months after the survey made, issue or deliver any certificate, copy, or plat of land by him surveyed, except only to the person or persons for whom the same was surveyed, or to his, her, or their order, unless a *caveat* shall have been entered against a grant to the person claiming under such survey, to be proved by an authentic certificate of such *caveat*, from the Clerk of the Court, where such *caveat* shall be entered, produced to the Surveyor; and if any Surveyor shall presume to issue any certificate, copy, or plat as aforesaid, to any other than the person or persons entitled thereto, every Surveyor so offending, shall forfeit and pay to the party injured, his, or her legal representatives, or assigns, one hundred dollars for every hundred acres of land contained in the survey, whereof a certificate, copy, or plat shall be so issued, or shall be liable to the action of the party injured at the common Law, for his, or her damages, at the election of the party. *c*

No plat to be delivered but to the owner within a year,

Unless a caveat be entered,

Penalty,

XXX. IT shall not be lawful for any Surveyor to admit an entry for any

No entry to be made

(*a*) *October 1783, ch. 32.* (*b*) *1787. ch. 52, sec. 5.* (*c*) *Oct. '83, ch. 32.*

Without a warrant from the register, or a certificate from a surveyor

Plats of surveys to be returned into the land office within twelve months.

Caveats.

Proceedings thereon.

land, without a warrant from the Register of the Land-Office, or on a certificate from a principal Surveyor, that such warrant is filed in his Office, which certificate shall describe the number thereof, the time when issued, to whom, and the assignments thereon, if any there be. *a*

XXXI. EVERY person for whom any waste or unappropriated lands shall be so located and laid off, shall within twelve months at farthest after the survey made, return the plat and certificate of the said survey into the Land-Office, and may demand of the Register a receipt for the same; and on failing to make such return within twelve months, as aforesaid, or if the breadth of his plat be not one third of its length, as before directed, it shall be lawful for any other person to enter a *caveat* in the said Land-Office against the issuing of any grant to him, expressing therein for what cause the grant should not issue; or if any person shall obtain a survey of lands to which another hath by Law a better right, the person having such better right, may in like manner, enter a *caveat* to prevent his obtaining a grant, until the title can be determined; such *caveat* also expressing the nature of the right on which the plaintiff therein claims the said land. *a*

XXXII. THE person entering any *caveat*, shall take from the Register of the Land-Office, a certified copy thereof, which within thirty days thereafter, he shall deliver to the Clerk of the Court of that District or County in which the land lies; and shall moreover take from the Surveyor of the County, or from the Register's Office, a certified copy of the survey and plat, which within thirty days from the entering such *caveat*, he shall in like manner deliver to the Clerk of the Court where the suit shall be instituted; and in case of failure in either instance, the *caveat* shall be void. *a*

XXXIII. THE Clerk of such Court, on receiving the same, shall enter such copy of the *caveat* in a book to be kept by him for that purpose, and shall thereupon issue a summons, reciting the cause for which such *caveat* is entered, and requiring the Defendant to appear on the first day of the next succeeding District Court, or quarterly Session, if the suit be instituted in a County Court, and defend his right; and on such process being returned executed, the Court shall proceed to determine the right of the cause in a summary way, without pleadings in writing, impannelling and swearing a Jury for the finding of such facts as are material to the cause, and are not agreed by the parties, and shall thereupon give judgment; a copy of such judgment, if in favor of the Defendant, being delivered into the Land-Office, shall vacate the said *caveat*; and if not delivered within three months, a new *caveat* may for that cause be entered against the grant; and if the said judgment be in favor of the Plaintiff, upon delivering the same into the Land Office, together with a plat and certificate of the survey, and also producing a legal certificate of new rights on his own account, he shall be entitled to a grant thereof; but on failing to make such return, and produce such certificates within six months after judgment so rendered, it shall be lawful for any other person to enter a *caveat* for that cause against issuing the grant; upon which subsequent *caveats*, such proceedings shall be had as are before directed in the case of an original *caveat*; and in any *caveat*, where judgment shall be given for the Defendant, the Court shall award him his costs, and may compel the Plaintiff, in any *caveat*, if they think fit, to give security for costs, or on failure thereof, may dismiss the suit; and in case the Plaintiff in any such *caveat* shall recover, the Court may, if they think it reasonable, award costs against the Defendant: *Provided*, that where any lands surveyed upon a land warrant as aforesaid, shall in consequence of any judgment upon a *caveat*, be granted to any other person than the party claiming under such warrant, such party shall be entitled to a new warrant from the Register for the quantity of land so granted to another, reciting the original warrant and rights, and the particular cause of granting the new warrant. *a*

Affidavit to be filed by the person entering a caveat,

XXXIV. *PROVIDED* always, That no *caveat* shall be entered, unless the person at the time of entering such *caveat*, shall file with the Register or his Deputy, an affidavit that such *caveat* is really and *bona fide* made with an intention of procuring the lands for the person in whose name such *caveat* is entered, and not in trust for the benefit of the person against whom such *caveat* is entered; and all *caveats* entered contrary to the directions of this Act, shall be absolutely null and void. *b*

Caveats to be dismissed if the summons be not

XXXV. AND wherever a summons upon a *caveat* shall either not be returned at all, or be returned not executed, the *caveat* upon which such summons

(a) May 1779, ch. 13, sec. 3. 1787, ch. 10. (b) May 1783, ch. 39, sec. 4.

shall have issued, shall be dismissed with costs, unless the Court, before whom such *caveat* shall be depending, shall be satisfied that the said summons not having been executed, did not proceed from the neglect of the party who entered such *caveat*. *a*

served or not returned.

XXXVI. AND whereas in some cases plats and certificates of survey have not been recorded in the Surveyor's office, nor returned to the Register's office within the times respectively limited by law, and it is doubtful whether the lands held under such surveys are not still liable to be *caveated*: *Be it therefore enacted*, that where no *caveat* shall be entered before the said duties respectively shall be performed, such lands shall not thereafter be liable to forfeiture on account of such failure. *b*

Caveats not to be entered after the duties performed.

XXXVII. THE Clerks of the several District and County Courts, within one month after the end of every Session of the said Courts, shall return to the Register of the Land-Office, an attested list of all *caveats* that were dismissed or determined at the said preceding Court, which the Register shall compare with the *caveat* book; and in all cases where he shall find that the *caveats* have been dismissed, or determined in favor of the Defendant, he shall make out grants for such lands, as if no such *caveats* had been entered in his office. *c*

Lists of caveats dismissed, or determined to be sent to the land office.

XXXVIII. WHENSOEVER upon a *caveat*, the Court shall determine in favor of a *caveator*, all the fees he shall pay into the Register's Office, in consequence of such determination, in order to obtain his patent, shall be by the Register paid to the person who, in the first instance upon the return of the survey, hath been compelled to pay the fees. *d*

When a caveat is established, fees paid by the caveator to be paid to the person returning the survey.

XXXIX. AND to prevent confusion and mistakes in the application, exchange or renewal of warrants, the Register of the Land-Office is hereby directed and required, to leave a sufficient margin in the record books of his Office, and whenever any warrant shall be exchanged, renewed, or finally carried into execution by a grant, to note the same in the margin opposite to such warrant, with folio references to the grant, or other mode of application; and also to note in the margin opposite to each grant, the warrant or warrants, and survey on which such grant is founded, with proper folio references to the books in which the same are recorded. *e*

Notes and references to be made by the register in the margins of the record books containing the warrants and grants.

XL. ALL persons, as well Foreigners as others, shall have right to assign or transfer warrants or certificates of survey for lands; and any Foreigner purchasing warrants for lands, may locate and have the same surveyed, and after returning a certificate of survey to the Land Office, shall be allowed the term of two years, either to become a Citizen, or to transfer his right in such certificate of survey, to some Citizen of this, or any other of the United States of America. *e*

Warrants and certificates of surveys transferable. Foreigners may locate and survey lands.

XLI. WHEN any grant shall have been finally completed, the Register shall cause the plat and certificate of survey on which such grant is founded, to be exactly entered and recorded in well bound books, to be provided for that purpose at the public charge. *e*

Plats of surveys on which grants may issue to be recorded.

XLII. DUE returns of the several articles herein before required, being made into the Land-Office, the Register, within not less than six, nor more than nine months, shall make out a grant by way of deed-poll, to the party having right, in the following form:

A. B. Esquire, Governor of the Commonwealth of Virginia, to all to whom these presents shall come, greeting: Know ye, that in consideration of military service performed by C. D. to this Commonwealth, &c. (or in consideration of military service performed by C. D. to the United American States, or in consideration of the sum of _____ paid by C. D. into the Treasury of this Commonwealth, &c.) there is granted by the said Commonwealth unto the said C. D. a certain tract or parcel of land containing _____ acres, lying in the County of _____, and hundred of _____, &c. (describing the particular bounds of the land and the date of the survey upon which the grant issues) with its appurtenances; to have and to hold the said tract or parcel of land, with its appurtenances, to the said C. D. and his heirs, for ever. In witness whereof, the said A. B. Governor of the Commonwealth of Virginia, hath hereunto set his hand and caused the seal of the said Commonwealth to be affixed at _____, on the _____ day of _____, in the year of our Lord _____, and of the Commonwealth _____ A. B. *e*

Form of the grant,

XLIII. UPON which grant the said Register shall endorse, that the party hath title to the same; whereupon it shall be signed by the Governor, sealed

To be signed, sealed and recorded.

(a) May 1783, ch. 39, sec. 4. (b) May 1782, ch. 49, sec. 4. (c) May 1783, ch. 3, sec. 5. (d) Oct. 1784, ch. 51, sec. 5. (e) May 1779, ch. 13, sec. 3.

If made to heirs or assignees, material circumstances of the title to be recited.

Right of pre-emption of infants, *femes covert*, &c. to swamps, &c. contiguous to their high lands.

Method of obtaining grants for surplus lands within the bounds of patents.

Proviso for the relief of land-holders unjustly vexed.

Method of rectifying mistakes in bounds, and obtaining inclusive patents.

with the seal of the Commonwealth, and then entered of record at full length, in good and well bound books, to be provided for that purpose at the public expence, and kept by the Register; and being so entered, shall be certified to have been registered, and then be delivered to the party or his order. *a*

XLIV. WHERE a grant shall be made to the heir or assignee of a person claiming under any of the before mentioned rights, the material circumstances of the title shall be recited in such grant. *a*

XLV. THE Proprietor of any high lands to which any swamps, marshes, or sunken grounds are contiguous, if an infant, *feme covert*, beyond sea, or under any other legal disability, shall have a right of pre-emption to enter for and complete his or her title thereto, at any time within three years after such disability shall be removed. *b*

XLVI. AND whereas, through the ignorance, negligence, or fraud of Surveyors, it may happen that divers persons now do, or may hereafter hold within the bounds expressed in their patents or grants, greater quantities of land than are therein mentioned: For quieting such possessions, preventing controversies, and doing equal justice to the Commonwealth and its Citizens; *Be it enacted*, that it shall not be lawful for any person to enter for, survey, or take up any parcel of land held as surplus in any patent or grant, except during the lifetime of the patentee or grantee, and before any transference, conveyance, or other alienation shall have been made of the lands contained in such patent or grant, and until the party intending to enter and take up the same, shall have given one full year's notice to such patentee or grantee, of such his intention; and in case such patentee or grantee, shall not within the year, obtain rights and sue forth a patent for the surplus land by him held, it shall be lawful for the person who gave notice as aforesaid, upon producing a certificate from the Clerk, of due proof of such notice before the Court of the County wherein such patentee or grantee resides, and to demand from the Register of the Land-Office, a warrant to the Surveyor of the County wherein such lands lie, to re-survey at the proper charge of the person obtaining such warrant, the whole tract within the bounds of the patent or grant, and upon such person's returning into the Land-Office a plat and certificate of such re-survey, together with the warrant on which it is founded, and obtaining and producing new rights for all the surplus land found within the said bounds, he may sue forth and obtain a new grant for such surplus, which shall be granted to him in the same manner as waste or unappropriated land; but the former patentee or grantee may assign such surplus land in any part of his tract as he shall think fit, in one entire piece, the breadth of which shall be at least one third of the length, and in such new grant there shall be a recital of the original patent or grant, the re-survey of which the surplus was ascertained, and of other material circumstances. *c*

XLVII. PROVIDED always, That if upon notice given as aforesaid, the original patentee or grantee shall, within the year, re-survey his tract, and it be thereupon found that he hath no more than the quantity of land expressed in his patent or grant, with the allowance herein after mentioned, the party giving such notice shall be liable to pay all charges of such re-survey, for which he shall give sufficient security to the said patentee or grantee, at the time of the notice, otherwise such notice shall be void and of no effect; and moreover, for his unjust vexation, shall also be liable to an action upon the case, at the suit of the party grieved; and that in all such new surveys, the patentee or grantee shall have an allowance, at the rate of five acres in every hundred, for the variation of instruments. *c*

XLVIII. WHERE any person shall find any mistake or uncertainty in the courses or description of the bounds of his land, and desires to rectify the same, or shall hold two or more tracts of land adjoining to each other, and is desirous to include them in one grant, he may in either case, having previously advertised his intentions, and the time of application, at the door of the Court-house on two several Court days, and also having given notice to the owners of the adjoining lands, present a petition to the Court of the County in which the lands lie, reciting the nature and truth of the case, and such Court may, and is hereby empowered to order the Surveyor of their County to re-survey such lands at the charge of the party, according to his directions, and the original or authentic title papers, taking care not to intrude upon the possessions of any other persons, and to return a fair plat and certificate of such re-survey into

(a) May 1779, ch. 13. (b) 1784, ch. 10, sec. 4. (c) May '79, ch. 13, sec. 4, 5.

the said Court, to be examined and compared with the title papers; and if such Court shall certify that, in their opinion, such re-survey is just and reasonable, the party may return the same, together with his material title papers into the Land-Office, and demand the Register's receipt for them; and in case any *caveat* shall be entered against his obtaining a new grant upon such re-survey, the same proceedings shall be had therein, as is directed in the case of other *caveats*, and the Court upon hearing the same, may either prohibit such new grant, or vacate the *caveat*, as to them shall seem just; but if no *caveat* shall be entered within six months after such return, or if a *caveat* shall be entered and vacated as aforesaid, the party upon producing new rights for whatever surplus land appears to be within the bounds, more than the before-mentioned allowance of five acres for every hundred, may sue out and obtain a new grant for such lands thereupon, in which shall be recited the dates and other material circumstances of the former title, and the title papers shall be delivered by the Register to the new owner. *a*

XLIX. THE Judges of the General Court shall once in every year, and oftener if they see cause, appoint two or more capable persons, to examine the Record books and papers in the Land-Office, and report in what condition and order they are kept, who shall compare all warrants of survey returned to the said office executed, with the list of those issued therefrom, and cancel all such as shall appear to have been properly executed or exchanged, an account of which shall be kept by the Register, charging therein those issued, and giving credit for those cancelled as aforesaid; but no original warrant shall be burnt or otherwise destroyed, but shall be regularly filed in the Land-Office with the title papers. *a*

L. NO original plat and certificate of survey, once received and carried into grant, shall thereafter be delivered out of the Land-Office, but shall remain amongst the other evidences of the title. *b*

LI. THE Register of the Land-Office shall account for with the Auditor, and pay regularly into the Treasury, at the end of every six months, all fees by him received from time to time, making oath that the fees so accounted for, are the whole profits accruing from the said office, so far as he knows or believes, up to the date of such account; and moreover his accounts of fees received, shall be fairly stated, and compared by the Auditor with the books of his office, before the account shall be passed. If the Register of the Land-Office shall at any time fail to account, according to the directions of this Act, for the space of six months, he shall forfeit and pay the sum of ten thousand dollars, to be recovered in the name of the Governor or Chief Magistrate for the time being, in any Court of Record, by the Auditor, on thirty days previous notice; and the *onus probandi* shall lie on the Defendant. *c*

LII. ON receiving each survey into the Register's office, the fees established by Law, that will accrue on the same, including the issuing of the grant thereupon, shall be paid; and if the Register shall credit any person, he shall account for the fees so credited in the same manner as if they had been received. *c*

LIII. WHENSOEVER any County Court shall be so divided in the recommendation of a Surveyor, that neither of the Candidates shall be recommended, it shall be lawful for the High Sheriff of such County, and he is hereby required to vote in favor of one of those Candidates between whom the Court shall be divided. *d*

LIV. IT shall not be lawful for any County Surveyor, hereafter to withhold from any person entitled to demand the same, a plat by him demanded; and every Surveyor out of office, shall have the same remedy for fees due to him, as is hereby given to the acting Surveyors: *Provided*, that no Surveyor shall be obliged to deliver a plat of land to any person or persons not resident within the State, before the fees for the same shall be paid, or such security given for the payment thereof, as to him shall be deemed sufficient. *e*

LV. THE Surveyor or Surveyors of any County or Counties from which a new County hath been taken, or hereafter shall be taken, shall, within one month after such division takes place, make out, and on application, deliver to the Surveyor of the new County, attested copies of all entries made upon lands within such new County, on his books, and not surveyed, together with the warrants upon which they were founded; for which service, he shall receive five

The General Court to cause the land-office to be examined once in every year or oftener, & certain warrants to be cancelled.

All original warrants to be filed with the title papers.

Plats on which surveys have issued to remain in the office.

When and how the Register shall account for the fees received.

Fees to be paid on receipt of the plat into the office.

High Sheriff to vote when the court is divided in the recommendation of a surveyor.

Surveyors not to withhold plats from the owners.

Surveyors out of office, how they may recover their fees.

When surveyors may withhold plats until the fees are paid or secured. When a new county is formed, copies of entries for lands therein to be delivered to the surveyor thereof, by the surveyor of the former county.

(a) May '79, ch. 18, sec. 6. (b) 1789, ch. 43, sec. 1. (c) 1784, ch. 51, sec. 2. (d) 1787, ch. 23, sec. 2. (e) 1787, ch. 52, sec. 3.

cents for every such attested copy, to be paid by the surveyor of the new County, upon receipt of the said attested copies. And, in case any Surveyor shall refuse or neglect to make out, or deliver such attested copies of entries within the time aforesaid, or at the expiration of the said time, upon the application of the Surveyor of the new County, he shall forfeit and pay the sum of one hundred and fifty dollars, to be recovered by action of debt or information, in any Court of record, by any person who will sue for the same; any law to the contrary, notwithstanding. *a*

Bounds of lands to be
proceffioned every
fourth year, beginning
in 1795.

Proceffioners.

Allowance to them.

Penalty for failure on
the court; on the per-
sons appointed to pro-
cession.

On the clerk of the
court.

On any other person.

How appropriated and
recoverable.

What shall be deemed a
sufficient excuse.

Bounds proceffioned
three times shall never
be altered.

Former proceffions con-
firmed.

LVI. THE Court of every County, at some Court between the first day of *June*, and the first day of *September*, which shall be in the year of our Lord, one thousand seven hundred and ninety-five, and so between the first day of *June* and the first day of *September* in every fourth year hereafter, shall divide their Counties into so many precincts, as to them shall seem most convenient, for proceffioning every person's land in their respective Counties, and shall appoint the particular times between the last day of *September* and the last day of *March*, then next coming, when such proceffioning shall be made in every precinct; and shall also appoint two or more intelligent, honest freeholders, of every precinct, to see such proceffioning performed, and to take and return to the said Court, an account of every person's land they shall proceffion, and of the persons present at the same, and what lands in their precinct they shall fail to proceffion, and the particular reasons of such failure; a copy of which order, shall be delivered by the Clerk of every Court, respectively, to the freeholders so appointed, within fifteen days after the making thereof; and the said freeholders shall cause the same to be obeyed in every particular, and shall cause notice to be given at the most public places in their County, at least three weeks before the same is to be performed, of the time appointed by them for proceffioning, in each precinct; and the said Court shall also cause the accounts returned by the freeholders, to be registered in particular books to be kept for that purpose by their Clerk. Each proceffioner shall be allowed by the Court of his County, fifty cents for every day he shall be employed in the business; and every County Court shall make a reasonable allowance to the Clerk thereof, for the services to be performed by him, by virtue of this Act; which several allowances shall be levied in their next County levy. *b*

LVII. AND that no person may pretend ignorance, the Court are also to direct what precinct or precincts in their County, respectively, every particular freeholder thereof shall attend and perform the proceffioning as aforesaid. And if any County Court shall fail to make such order as aforesaid, every Justice of the Peace of such County, shall forfeit and pay twenty-five dollars. And if any freeholder shall fail to obey and execute such order, every freeholder failing, shall forfeit and pay fifteen dollars; and any County Court Clerk, failing to perform his duty as directed by this Act, shall forfeit and pay twenty-five dollars.

LVIII. AND if any other person not having lawful excuse (to be judged of by the County Court) shall fail to perform his duty as is herein before required, every person so failing, shall forfeit and pay fifteen dollars; one moiety of which several forfeitures shall be to the use of the poor of the County, and the other half to the informer, and may be recovered in any Court of record within this Commonwealth, having jurisdiction thereof.

LIX. PROVIDED always, That in any suit, information, or petition brought against a Magistrate of a County, or any other person, for any breach of this act, where the defendant shall give sufficient evidence to the Court, where the suit or information shall be depending, that he was necessarily absent, or that, being present, he offered to do his duty, pursuant to this Act, in such case the suit or information as to such defendant shall be dismissed.

LX. ALL and every proceffioning the bounds of any person's lands at three several times heretofore made according to the directions of the Laws then in force, or hereafter to be made pursuant to the directions of this Act, shall be held, and is hereby declared to be sufficient to settle such bounds, so as the same may never afterwards be altered; and every proceffioning made in pursuance of, and conformably to the former Laws, shall be, and is hereby declared to be one of the three times of proceffioning by this Act, held to be sufficient.

LXI. WHEN any controversy shall hereafter happen between persons, whose lands lie contiguous, about their respective bounds, and the owner or owners of such lands shall refuse to suffer the same to be processioned, in such case, the freeholders appointed as aforesaid, shall within ten days after such refusal, certify the same under their hands to the Court of the County wherein such lands shall lie at their next session, and such Court shall thereupon order their Surveyor with a Jury, to lay out the bounds in dispute at the charge of the party against whom the right to such bounds shall be determined, and to return such survey to the next Court, after the same shall be made, which return shall be recorded by the County Court Clerk.

How disputed bounds shall be laid out where the parties refuse to have their lands processioned.

LXII. IF such lands shall happen to lie in two or more Counties, then certificate as aforesaid shall be returned to the Court of each County, and the Court of that County in which the beginning of such controverted bounds shall lie, shall order their Surveyor, with a Jury of their County, to survey the whole bounds in dispute, and the Sheriff of each County wherein the same shall lie, to attend the Surveyor in their respective Counties; and such survey shall be made, returned, recorded, and registered in the manner, and at the charge of the party against whom the right to such bounds shall be determined. And all and every survey and surveys, so as aforesaid made and registered, shall be held, deemed and taken to be a sufficient processioning of such lands, to all intents and purposes, as if the same had been done by, and with the consent of the owner thereof.

Where the lands lie in two or more counties.

LXIII. PROVIDED always, That the processioning and settlement of the bounds of land held by any Tenant for life only, shall not bar or conclude the heir in reversion or remainder, but such heir may at any time within six years after the death of such Tenant, controvert the bounds as if no processioning or settlement had been made.

Heir in reversion or remainder may within six years after the death of tenant for life, controvert the bounds.

LXIV. THE processioning and setting the bounds of lands belonging to any person, then being within the age of one and twenty years, *feme covert*, *non compos mentis*, imprisoned, or not resident within this Commonwealth, shall not be conclusive to such person or persons, until six years after their respective incapacities or disabilities shall be removed or determined.

Also persons under legal disabilities.

LXV. THE several penalties and forfeitures by this Act laid, given or inflicted, shall and may be recovered with costs, by action of debt, information, or petition, in any Court of Record within this Commonwealth, wherein such penalty or forfeiture shall be cognizable. *a*

Penalties how recoverable.

LXVI. ALL and every Act and Acts, clauses and parts of Acts, within the purview of this Act, shall be, and the same are hereby repealed. *Provided nevertheless*, that all rights, remedies, fines, penalties and forfeitures, incurred or accruing under any former Act, shall remain in the same condition as if this Act had not been made.

Repealing clause: *Provido*.

LXVII. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. LXXXVII.

An Act reducing into one, the several Acts concerning forcible Entries and Detainers.

[Passed the 3d of December, 1792.]

I. **B**E it enacted by the General Assembly, That none shall make any entry in- to any lands and tenements, or other possessions whatsoever, but in case where entry is given by the Law; and in such case not with strong hand, nor with multitude of people, but only in a peaceable and easy manner, and that none who shall have entered into the same in a peaceable manner, shall hold the same afterwards with force; and if any shall do to the contrary, on complaint thereof to any Justice or Justices of the Peace, such Justice or Justices shall take sufficient power of the County, and go to the place where such force is made; and all the people of the County, as well the Sheriff as others, shall be attendant upon the same Justices, to go and assist them to arrest such offenders, upon pain of imprisonment and amercement, at the discretion of a Jury.

No lands or tenements to be entered or holden with force.

II. BUT no warrant of forcible entry and detainer, or of forcible detainer, shall hereafter be granted, unless upon the oath or affirmation of the party praying the same. *b*

Offenders to be arrested.

No warrant of forcible entry, &c. to be granted but on oath.

Offenders to have notice of the time and place of taking the inquisition.

Justices to enquire by jury of the force, and to cause to be re-seized the lands so entered or holden.

How the jury shall be summoned.

Penalty on the sheriff for neglect.

Mayors, Aldermen, and Serjeants to have the same power as Justices and Sheriffs.

Restitution not to be made if the party indicted hath had three years possession; to be stayed until that be tried.

Party indicted to pay costs and damages if it be found against him.

Tenants for years or by elegit to have the remedy as tenants of freehold estates.

Repealing clause.

Commencement of this Act.

III. THE name or names of the person or persons so charged, shall be inserted in every such warrant; and the Sheriff or other Officer to whom the same shall be directed, shall give reasonable notice, of at least three days, to such person or persons, of the time and place of taking the inquisition. And no Jury shall be sworn to enquire of any forcible entry or detainer, where such previous notice hath not been given.

IV. AND moreover, though such persons making such entries be present, or else departed before the coming of such Justice or Justices, notwithstanding the said Justice or Justices, in some convenient place, according to their discretion, shall have authority and power to enquire by the people of the same County, as well of them that make such forcible entries in lands and tenements, as of them who hold the same with force; and if it be found before any of them, that any doth contrary to this Act, then the said Justice or Justices shall cause to be re-seized, or to be re-possessed, the lands and tenements so entered or holden as afore, and shall put the party so put out, in full possession thereof.

V. AND also when the said Justice or Justices make such enquiries as before, he or they shall make their warrants and precepts, to be directed to the Sheriff of the same County, commanding him on behalf of the Commonwealth, to cause to come before him or them, fit persons to enquire of such entries: and if any Sheriff be slack, and make not execution duly of the said precepts to him directed, to make such enquiries, he shall forfeit eighty dollars, recoverable before any Court of Record, as well by indictment or information, to be taken only for the Commonwealth, as by bill at the suit of the party grieved, as well for himself as for the Commonwealth; in which case one moiety of the said eighty dollars shall be to the Commonwealth, and the other moiety, together with his costs and expenses, shall be to the party suing.

VI. AND moreover, Mayors, Aldermen, and Serjeants of Cities and Boroughs, shall have in the said Cities and Boroughs, like power to remove such entries, and in other articles aforesaid arising within the same, as the Justices of Peace, and Sheriffs in Counties respectively have.

VII. BUT no restitution upon any indictment of forcible entry, or holding with force, shall be made to any, if the party indicted hath had the occupation, or hath been in quiet possession by the space of three whole years together, next before the day of such indictment so found, and his estate therein be not ended or determined; which the party indicted may alledge for stay of restitution, and restitution shall stay until that be tried, if the other will deny or traverse the same; and if the same allegation be tried against the party so indicted, then the same party so indicted, shall pay such costs and damages to the other party, as shall be assessed by the Judges or Justices before whom the same shall be tried.

VIII. TENANTS for terms of years, and Tenants by *elegit* of lands, or tenements by them so holden, which shall be entered upon by force, or holden from them by force, shall have the same remedy as Tenants of any estate of freehold or of inheritance.

IX. ALL and every Act, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed.

X. THIS Act shall commence in force, from and after the passing thereof.

CHAP. LXXXVIII.

An Act to prevent unlawful Hunting and Ranging.

[Passed the 4th of December, 1792.]

Penalty for hunting, fishing or fowling within the lands or tenements of another.

I. **B**E it enacted, That if any person or persons, shall at any time shoot, hunt, or range upon the lands or tenements, or fish, or fowl in any creeks or waters included within the bounds of any other person or persons, without license first obtained of the owner of such lands, every such offender shall forfeit and pay three dollars for every such offence, to be recovered with costs, before any Justice of the Peace of the County where the offence shall be committed; by the Informer, to his own use; in which information, the confession of the party accused, or the oath of one credible witness, shall be sufficient evidence. And where the owner of the land shall prosecute for any unlawful shooting, hunting, ranging, fishing, or fowling within his bounds, the oath of such owner shall be sufficient evidence to convict the offender: but in that case the penalty shall be paid to the Overseer of the poor of the District wherein the offender resides,

to the use of the poor of such District; and moreover, every such offender shall be liable to the action of the party grieved, at the common Law, for his or her damages. *a*

II. IF any person shall be the third time convicted of any such offence as aforesaid, the Justice of Peace before whom such conviction shall be, over and above giving judgment for the aforesaid forfeiture, shall require such offender to enter into recognizance, with one or more sufficient sureties, to the Governor, for the time being, and his successors, in the penalty of thirty dollars for his good behaviour, during one whole year from thence next following; or in case of refusal so to do, shall commit him to the common Jail, there to remain until he give such security, or until the expiration of one month. And if after such surety given, such offender shall be convicted of shooting, hunting, ranging, fishing, or fowling unlawfully as aforesaid, within the time in his recognizance limited, such offence shall be breach of the good behaviour, and the penalty of his recognizance shall be forfeited to the Overseers of the poor, for the use of the poor of the District wherein such conviction shall be. *a*

III. ALL and every Act or Acts, within the purview of this Act, shall be, and the same are hereby repealed.

IV. THIS Act shall commence in force, from and after the passing thereof.

The offender also liable to action at the common law.

Upon a third conviction the offender besides paying the penalty, shall be bound to his good behaviour or committed.

Conviction of such offence after security given, shall be a breach of the good behaviour.

Repealing clause.

Commencement of this act.

CHAP. LXXXIX.

An Act to reduce into one, the several Acts for the better securing the payment of Rents, and preventing the fraudulent Practices of Tenants; and to Regulate the Practice of suing out and prosecuting Writs of Replevin.

[Passed the 29th of November, 1792.]

I. **B**E it enacted by the General Assembly, That where any goods or chattels shall be distrained for any rent, reserved and due upon any demise, lease or contract whatsoever, and the Tenant or Owner of the goods so distrained, shall not within ten days after such distress taken, and notice thereof, and the cause of such taking left at the chief mansion house, or other most notorious place on the premises, charged with the rent distrained for, replevy the same, by sufficient security given to the Sheriff or Officer serving such distress, to pay the money or tobacco, and all costs, with lawful interest for the same, at the end of three months; in such case, such Sheriff or Officer shall and may sell the goods and chattels so distrained for, by public auction, to the highest bidder, either for money or tobacco, according as the rent reserved shall be due and payable, to be paid at the end of three months; and shall take bond of the buyer or buyers, with one or more sufficient securities, to pay the same accordingly, with interest to the landlord for whom the distress was made. *b* †

The method of proceeding in distresses for rent.

II. ALL and every bond and bonds, so taken in pursuance of this act, shall mention that the same was or were entered into for goods or other estate distrained for rent, and restored to the debtor, or sold to the obligor, (as the case shall be) and before the expiration of the said three months, shall be delivered to the landlord for whom distress was made. And if the money or tobacco shall not be paid according to the condition of any such bond, it shall be lawful, and full power and authority, is hereby given to the Justices of the Court where such bond shall be lodged, upon motion of the party to whom the same is payable, to award execution thereupon, with costs, provided the obligors have ten days notice of such motion; and upon such execution, the Sheriff or Officer shall not take any sureties for payment of the money or tobacco at a further day, but shall levy the same immediately. And for the better direction of such Sheriff or Officer, the Clerk shall endorse upon the back of every such execution, that "no security is to be taken." *c*

Tenor of the bonds to be taken in pursuance of this act.

Mode of proceeding for the recovery of the money due thereon.

III. *PROVIDED* always, That when distress shall be made for tobacco, between the last day of September, and the last day of December in any year, and the goods distrained shall not be replevied as aforesaid, such goods shall be sold, and security taken for paying the tobacco by the first day of January, then next ensuing; and the bonds taken for the same, and costs of seizure and sale,

Where the distress is made for tobacco between the 30th of September and the 31st of December.

(*a*) 22, Geo. 2, ch. 1, sec. 63, 64. (*b*) 1748, ch. 10, sec. 1. † By act of 1800, pa. 10, ch. 12, in case the property be replevied, officers allowed the same commissions as for taking forthcoming bond. (*c*) 1748, ch. 8, sec. 14.

shall be by the Officer delivered to the landlord for whom distress was made; which last mentioned bonds shall have the like force, and may be proceeded upon in the same manner, as any other bond directed to be taken by this Act. *a*

Remedy in case of
wrongful distress.

IV. IN case any distress and sale shall be made, under colour of this Act, for rent pretended to be in arrear and due, where in truth no rent is in arrear or due to the person or persons distraining, or to him, her, or them in whose name or names, or right, such distress shall be taken as aforesaid, then the owner of the goods and chattels so distrained and sold, his executors or administrators, shall have remedy, by action of trespass, or upon the case, against the person and persons so wrongfully distraining, or either of them, his, her, or their executors and administrators, and shall recover double the value of the goods and chattels so distrained and sold, together with full costs of suit. *a*

Treble damages upon
pound breach or rescous.

V. UPON any pound breach, or rescous, of goods or chattels, distrained for rent, the person or persons grieved thereby, shall, in a special action upon the case, for the wrong thereby sustained, recover treble damages, with costs of suit, against the offender and offenders, in any such rescous or pound breach, or either of them, or against the owner of the goods distrained, in case the same be afterwards found to have come to his or her use or possession. *a*

Goods upon leasehold
lands not to be taken in
execution until the rent
in arrear be paid.

VI. NO goods or chattels whatsoever, lying or being in or upon any messuage, lands, or tenements, which are or shall be leased for life or lives, term of years, at will, or otherwise, shall at any time hereafter be liable to be taken by virtue of any writ of execution, or on any pretence whatsoever, unless the party so taking the same, shall, before removal of the goods from off such premises, pay or tender to the landlord or lessor thereof, or his agent, all the money or tobacco due for the rent of the said premises, at the time of taking such goods or chattels in execution. *a*

Proviso.

VII. PROVIDED nevertheless, That such rent arrear do not amount to more than one year's rent; and if more be due, then the party suing out such execution, paying or tendering to such landlord, or his agent, one year's rent, may proceed to execute his judgment: And the Sheriff or Officer serving the same, is hereby empowered and required, to levy and pay to the Plaintiff, as well the money or tobacco so paid for rent, as the execution money. *a*

Where the landlord sus-
pects his Tenant will
remove, he may have
an attachment.

VIII. WHERE any landlord shall have sufficient grounds to suspect that his Tenant will remove with his effects out of the County or Corporation, before the expiration of his term, so as no distress for the said rent can be made, it shall be lawful for such landlord to go before any Justice of the Peace of the County or Corporation, where the lands leased do lie, and make oath what rent the Tenant is to pay, and at what time the same will be due, and that he has just cause to suspect, and verily believes such Tenant will remove his or her effects out of the County or Corporation before time of payment; and thereupon such Justice may, and he is hereby empowered and required, to issue an attachment against the goods and chattels of such Tenant, returnable to his next County or Corporation Court; and if such Tenant shall not, at the time of serving such attachment, or before, or at such next Court, enter into recognizance, with one or more sufficient securities, for the payment of the said rent at the time it shall become due, it shall be lawful for such Court, and they are hereby required to order the goods attached to be sold by the Sheriff or Serjeant at public auction, for money or tobacco according to the reservation of the rent, to be paid at the time the rent shall become due, the purchasers giving good security for such payment, and to assign the bonds taken for the same, and the costs to such landlord; and the overplus of such sale, if any besides the charges of attachment and sale, to return to the owner. *a*

Goods carried off the
premises may be seized
within ten days there-
after.

IX. IN case any lessee for life or lives, term of years, at will, or otherwise, of messuages, lands or tenements, upon the demise whereof any rents are or shall be reserved, or made payable, shall at any time fraudulently or clandestinely convey or carry off or from such demised premises, his goods or chattels, with intent to prevent the landlord or lessor from distraining the same for arrears of rent so reserved, it shall be lawful for such lessor or landlord, or any person or persons by him for that purpose lawfully empowered, within ten days next after such conveying away or carrying off such goods and chattels, to take and seize the same wherever they shall be found, as a distress for the arrears of such rent, and the same to sell in like manner as if they actually had been distrained by such lessor or landlord in and upon the demised premises. *a*

X. *PROVIDED always*, That no goods or chattels so carried off, and *bona fide* sold for a valuable consideration before such seizure made, shall be afterwards liable to be so taken or seized for any arrears of rent. *a*

But not if sold before seizure.

XI. ANY person or persons having rent in arrear, or due upon any lease or demise for life or lives, may bring an action or actions of debt for such arrears of rent, in the same manner as if such rent were due and reserved upon a lease for years. *a*

Rent arrear upon lease for life recoverable by action of debt.

XII. IT shall be lawful for any person or persons having rent in arrear, or due upon any lease for life or lives, or for years, or at will, ended or determined, to distrain for such arrears after the determination of the respective leases, in the same manner as if such lease or leases had not been determined. *a*

How rent arrear may be distrained for after determination of the lease.

XIII. *PROVIDED*, That such distress be made within six months after the determination of such lease, and during the continuance of such landlord's title or interest, and during the possession of the Tenant from whom such arrears became due. And no distress for rent shall be made in any case whatsoever, but within five years after such rent shall have become due and in arrear. *a*

Provido.

XIV. *PROVIDED also*, That nothing in this act contained, shall extend or be construed to let, hinder, or prejudice the Commonwealth, in the levying, recovering, or seizing any debts, fines, penalties, or forfeitures due, payable or answerable to the Commonwealth; but that the same may be levied, recovered and seized, in the same manner as if this Act had never been made. *a*

Saving debts due to the commonwealth.

XV. AND whereas very great and unjust delays have arisen from the suing out writs of replevin, in cases of goods distrained for rent: For remedy whereof, *Be it enacted*, that before any writ of replevin shall be granted in case of goods and chattels distrained for rent, the person or persons praying such writ shall enter into bond, with one or more sufficient securities, in the Clerk's office, in the penalty of at least double the value of the rent distrained for, and costs of suit, to perform and satisfy the judgment of the Court in such suit, in case he, she, or they shall be cast therein; and if upon the trial of such suit, it shall be found that the rent distrained for, was justly due, the party injured or delayed by suing forth the said writ, shall recover against the party suing forth and prosecuting the same, double the value of the rent in arrear and distrained for, with full costs of suit. And upon any execution issued upon such judgment, the Clerk shall in like manner endorse, that "no security is to be taken." *b*

No writ of replevin to be issued until bond & security be given.

XVI. WHERE any person shall suggest that the goods distrained, are his or her property, and not the property of the Tenant, nor held in trust for the use of the Tenant in any manner whatsoever, and that the same in his or her opinion are not liable to such distress, he or she giving bond and security, in manner herein before directed, may sue out a writ of replevin for such goods, but not otherwise; and in case the person or persons suing out the said writ, shall be cast in such suit, judgment shall be given against him for double the value of the rent in arrear and distrained for, with full costs as aforesaid. *b*

Rent being found due, the party delayed to recover double the value.

XVII. AND for the more speedy determination of such writs of replevin:

XVIII. *BE it further enacted*, That every such writ shall be returnable to the next Court after the same shall be issued, and such Court shall at their next sitting after the return, cause an issue to be made up therein, which shall be tried at the following Court, without waiting for its turn in the order of priority in regard to other suits. *b*

Person other than the tenant may sue out writ of replevin, and if cast shall pay double the rent.

Suits in replevin to be speedily tried.

XIX. ALL persons being grantees or assignees of any lands, tenements or hereditaments, let to lease, or of the reversions thereof, from any person or persons, and the heirs, executors, and administrators and assigns of such grantees or assignees, shall and may have and enjoy the like advantages against the lessees, their executors, administrators and assigns, by entry for non-payment of the rent, or for doing of waste, or other forfeitures, and also shall and may have and enjoy all and every such like covenants and agreements, contained and expressed in the indentures of their said leases, demises or grants, against all the said lessees, their executors, administrators, and assigns, as the said lessors themselves, or their heirs ought, should, or might have had, or enjoy at any time or times.

Grantees of lands, or the reversions, to have the same right of entry for non-payment of rent, &c. as the original lessors.

XX. ALL lessees of any lands, tenements, or hereditaments, for a term of years, life or lives, their executors, administrators or assigns, shall and may have

Lessees of lands to have the same actions and

advantages of covenants, &c. against the grantees of reversions as against the original lessors.

Executors and Administrators may maintain debt against a tenant or his executors for rent due to their testator, or may distrain during the tenants seizin or possession.

Husband having a fee simple or estate for life in right of his wife may after her death maintain debt, or distrain for rent accruing during her life.

Executors and Administrators may maintain debt or distrain for rent due to their testators although the tenants estate be determined.

Goods distrained not to be removed out of the county.

Repealing clause.

Proviso.

Commencement of this act.

like action, advantage against all and every person and persons, their heirs and assigns, which have, or shall have any gift or grant of the reversion of the said lands, tenements, or hereditaments, so letten, or any parcel thereof, for any condition, covenant, or agreement contained or exprest in the indentures of their lease and leases, as the same lessees or any of them, might and should have had against the said lessors and their heirs: all benefit and advantage of recoveries in value by reason of any warranty in deed or in Law, only excepted.

XXI. THE executors and administrators of any person unto whom any rent is or shall be due, and not paid at the time of his death, shall and may have an action of debt for a l such arrearages against the Tenant or Tenants, that ought to have paid the said rent so being behind in the life of their Testator, or against the executors or administrators of such Tenants; and also furthermore, it shall and may be lawful for every such executor and administrator of any such person, to whom such rent is or shall be due and not paid at the time of his death, to distrain for the arrearages of all such rents, on the lands, tenements, and other hereditaments, which were charged with the payment of such rents, and chargeable to the distress of the said testator, or intestate, so long as the same continue, remain, and be in the seizin or possession of the said Tenant in demesne, who ought immediately to have paid the said rent, so being behind to the said testator or intestate in his life time, or in the seizin or possession of any person or persons claiming the said lands, tenements, and hereditaments, only by and from the said Tenant by purchase, gift, or descent, in like manner and form as their said testator might or ought to have done in his life time; and the said executors and administrators for the same distress, lawfully may make avowry upon the matter aforesaid. *a*

XXII. If any man which now hath or hereafter shall have in the right of his wife any estate in fee simple, or for term of life, of, or in any rents or fee farms, and the same rents or fee farms now be or hereafter shall be due, behind and unpaid in the said wife's life, then the said husband after the death of his said wife, his executors and administrators, shall have an action of debt for the said arrearages, against the Tenant of the demesne, that ought to have paid the same, his executors or administrators, and also the said husband, after the death of his said wife, may distrain for the said arrearages, in like manner and form as he might have done, if his said wife had been then living, and make avowry upon his matter as is aforesaid.

XXIII. THE executors and administrators of any person or persons having rent in arrear or due upon any demise or lease, for life or lives, or for years, or at will, although the same be determined, shall and may have the like remedy by action of debt, or by distress, against the person who ought to have paid the same, his or her executors or administrators, as the testator if living, might or could have had.

XXIV. It shall not be lawful for any person taking any distress to drive or remove the same out of the County where such distress was taken: And whosoever doth so, shall be amerced at the discretion of a Jury; moreover, distresses shall be reasonable and not too great, and he that taketh great and unreasonable distresses, shall be amerced for the excess of such distresses. *b*

XXV. ALL and every Act and Acts, clauses and parts of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed.

XXVI. PROVIDED, that all rights and remedies given by every such Act or Acts, and all such parts of Acts, shall be, and remain as if this Act had not been made.

XXVII. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. XC.

An Act for Regulating Conveyances.

[Passed the 13th of December, 1792.]

No estate of freehold in lands or tenements to pass but by deed.

I. **B**E it enacted by the General Assembly, That no estate of inheritance, or freehold, or for a term of more than five years, in lands or tenements,

(a) From stat. 20, 32. H. 8, ch. 37. (b) From 52, H. 3, ch. 4.

shall be conveyed from one to another, unless the conveyance be declared by writing, sealed, and delivered; nor shall such conveyance be good against a purchaser for valuable consideration, not having notice thereof, or any creditor, unless the same writing be acknowledged by the party or parties who shall have sealed and delivered it, or be proved by three witnesses to be his, her, or their act, before the General Court, or the Court of that District, County, City, or Corporation in which the land conveyed, or some part thereof lieth, or in the manner herein after directed, within eight months after the time of sealing and delivering, and be lodged with the Clerk of such Court to be there recorded. *a* †

How, when and where such deeds must be acknowledged or proved, and recorded.

II. NO covenant or agreement made in consideration of marriage, shall be good against a purchaser for valuable consideration, not having notice thereof, or any creditor, unless the same covenant or agreement be acknowledged by the party bound thereby, or be proved by three witnesses, to be his, her, or their act, if land be charged, before the General Court, or the Court of that District or County in which the land or part thereof lieth, or if personal estate only be settled or covenanted, or agreed to be paid or settled, before the Court of that District, County, City, or Corporation, in which such party shall dwell, or in the manner herein after directed, within eight months after the covenant or agreement made, and be lodged with the Clerk of such Court, to be there recorded. *a*

How, when and where covenants and agreements in consideration of marriage must be acknowledged, or proved, and recorded.

III. WHEN any such deed or conveyance shall be acknowledged or proved in Court, in order to their being recorded, the livery of seizin thereupon made, in such cases where the same is by Law required, shall in like manner be acknowledged or proved, and shall be recorded together with the deed or conveyance whereupon it shall be made. *b*

Livery of seizen to be recorded with the deed.

IV. ALL bargains, sales, and other conveyances, whatsoever, of any lands, tenements, or hereditaments, whether they be made for passing any estate of freehold, or inheritance, or for term of years, and all deeds of settlement upon marriage, wherein either lands, slaves, money, or other personal thing shall be settled or covenanted to be left, or paid at the death of the party or otherwise, and all deeds of trust and mortgages whatsoever, which shall hereafter be made and executed, shall be void as to all creditors and subsequent purchasers, unless they shall be acknowledged or proved, and recorded according to the directions of this Act; but the same as between the parties and their heirs, shall nevertheless be valid and binding. † *b*

All conveyances, settlements, trusts, & mortgages of lands and chattels, void as to creditors and subsequent purchasers, if not recorded. But binding between the parties.

V. IF the party who shall sign and seal any such writing, reside not in Virginia, or in the District or County where the lands conveyed lie, the acknowledgment by such party, or the proof by the number of witnesses requisite, of the sealing and delivering of the writing, before any Court of Law, or the Mayor or other Chief Magistrate of any City, Town, or Corporation of the County in which the party shall dwell, certified by such Court, or Mayor, or Chief Magistrate, in the manner such acts are usually authenticated by them, and offered to the proper Court to be recorded within eighteen months after the sealing and delivering, where the party resides out of this Commonwealth, and within eight months after the sealing and delivery where the party resides within this Commonwealth, shall be as effectual as if it had been in the last mentioned Court. *c*

How deeds may be acknowledged or proved where the grantor resides out of the state, or the district or county wherein the lands lie.

VI. WHEN husband and wife have sealed and delivered a writing, purporting to be a conveyance of any estate or interest, if she appear in Court, and being examined privily and apart from her husband, by one of the Judges thereof, shall declare to him that she did freely and willingly seal and deliver the said writing to be then shewn and explained to her, and wishes not to retract it, and shall before the said Court acknowledge the said writing, again shewn to her, to be her act, or if before two Justices of the Peace of that County in which she dwelleth, if her dwelling be in the United States of America, who may be empowered by commission, to be issued by the Clerk of the Court wherein the

Deed by husband & wife acknowledged in court, or before two justices empowered by commission to receive her acknowledgment, shall pass the estate of the wife, if she resides within the United States.

(*a*) From 1785, ch. 62. † Deeds partly proved in Gen. Court, may be either fully proved there, or sent to the court of the district or county where the lands lie, for further proofs—see Gen. Ct. law, acts '92, ch. 13. (*b*) 1748, ch. 1, sec. 2, 4. † See act to prevent frauds, &c. part of 2d sec. which allows a conveyance of goods and chattels only to be recorded on proof of two witnesses; but I suppose that this sec. excepts deeds of trust and mortgages. (*c*) From 1785, ch. 62. § By act of 1796, ch. 13, sec. 2, the power hereby given to justices of counties, is also extended to magistrates of corporate towns.

writing ought to be recorded, to examine her privily, and take her acknowledgment; the wife being examined privily and apart from her husband, by those commissioners, shall declare that she willingly signed and sealed the said writing, to be then shewn and explained to her by them, and consenteth that it may be recorded, and the said commissioners shall return with the commission, and thereunto annexed a certificate under their hands and seals of such privy examination by them, and of such declaration made, and consent yielded by her, in either case the said writing, acknowledged also by the husband, or proved by witnesses to be his act, and recorded together with such her privy examination and acknowledgment before the Court, or together with such commission and certificate, shall not only be sufficient to convey or release any right of dower thereby intended to be conveyed or released, but be as effectual for every other purpose as if she were an unmarried woman. *a*

To whom the commission must be directed if she resides out of the United States.

Privy examinations of *femes covert* void if not recorded.

In what manner writings acknowledged or proved in courts shall be recorded.

Memorials of such writings recorded in the district & county courts, to be recorded in the general court.

Persons having estates tail, to stand seized in fee simple.

Proviso respecting such estates as have or may become escheatable for defect of blood.

VII. IF the dwelling of the wife be not in the United States of *America*, the commission to examine her privily and take her acknowledgment, shall be directed to any two Judges or Justices of any Court of Law, or to the Mayor, or other Chief Magistrate of any City, Town, or Corporation of the Country in which the wife shall dwell, and may be executed by them in the same manner as a commission directed to two Justices in the United States of *America*; and the certificate of the Judges or Justices of such Court, or the certificate of such Mayor or Chief Magistrate authenticated in the form, and with the solemnity by them used in other acts, shall be as effectual as the like certificate of the Justices in the United States of *America*. And whereas it has always been adjudged, that when a deed has been acknowledged by a *feme covert*, and no record made of her privy examination, such deed is not binding on the *feme* or her heirs, it is therefore declared, that the Law herein shall always be held according to the said judgments; and the Clerks of the Courts before whom any deed of a *feme covert* shall be acknowledged, shall always hereafter record her privy examination. *a*

VIII. THE Clerk of every Court shall record all writings acknowledged or proved before such Court, or certified to have been acknowledged and proved in manner before prescribed, together with the commissions for privily examining and taking the acknowledgments of married women, and all endorsements on such writings, and plats, schedules and other papers thereto annexed, by entering them word for word in well bound books, to be carefully preserved, and afterwards re-deliver them to the parties entitled to them, and shall moreover make a docket of all such writings, containing the dates thereof, and of the acknowledgments and probats, the names, surnames, and additions of the parties thereto in alphabetical order, and the quantities and situations of land, numbers and names of slaves, and descriptions of personal estate conveyed thereby; and the Clerk of every District or County Court, shall transmit such docket made by him to the Clerk of the General Court, on or before the first of *October* annually, to be recorded by him. *a*

IX. EVERY estate in lands or slaves, which on the seventh day of *October*, in the year of our Lord one thousand seven hundred and seventy-six, was an estate in fee tail, shall be deemed from that time to have been, and from thenceforward to continue an estate in fee-simple: And every estate in lands, which since hath been limited, or hereafter shall be limited, so that as the Law aforetime was, such estate would have been an estate tail, shall also be deemed to have been, and to continue an estate in fee-simple. And all estates which before the said seventh day of *October*, one thousand seven hundred and seventy-six, by the Law, if it remained unaltered, would have been estates in fee-tail, and which now by virtue of this Act, are, and will be estates in fee-simple, shall from that time and henceforth be discharged of the conditions annexed thereto by the common Law, restraining alienations before the donee shall have issue, so that the donees or persons in whom the conditional fees vested, or shall vest, had and shall have the same power over the same estates, as if they were pure and absolute fees. *a*

X. *PROVIDED* always, That all estates in lands or slaves which have become, or shall hereafter become escheatable to the Commonwealth, by virtue of the Act, intituled, "*An Act declaring tenants of lands or slaves in tail, to hold the same in fee-simple*," or of this Act, for defect of blood, shall descend, and be deemed to have descended agreeable to the limitations of the deed or will creating such estates. *b*

(*a*) 1785, ch. 62. (*b*) May 1783, ch. 27.

XI. *PROVIDED also*, That nothing in this Act contained, shall be construed to restrain any Tenant of such lands or slaves, from selling or conveying the same by deed in his or her lifetime, or disposing thereof by his or her last will and testament, and that all such estates shall remain liable to the debts of the Tenants in the same manner as lands and slaves held in fee-simple: *Provided moreover*, that this Act shall not extend to any lands or slaves which have been escheated and sold for the use of the Commonwealth. *a*

XII. EVERY estate in lands which shall hereafter be granted, conveyed, or devised to one, although other words heretofore necessary to transfer an estate of inheritance be not added, shall be deemed a fee-simple, if a less estate be not limited by express words, or do not appear to have been granted, conveyed, or devised by construction or operation of Law. *b*

XIII. WHERE an estate hath been, or shall be by any conveyance limited in remainder to the son or daughter, of or to the use of the son or daughter of any person, to be begotten, such son or daughter born after the decease of his or her father, shall take the estate in the same manner as if he or she had been born in the lifetime of the father, although no estate shall have been conveyed to support the contingent remainder after his death. *b*

XIV. BY deed of bargain and sale, or by deeds of lease and release, or by covenant to stand seized to use, or deed operating by way of covenant to stand seized to use, the possession of the bargainor, releasor, or covenantor, shall be deemed heretofore to have been, and hereafter to be transferred to the bargainee, releasee, or person entitled to the use, for the estate or interest which such person hath, or shall have in the use, as perfectly as if such bargainee, releasee, or person entitled to the use had been enfeoffed, with livery of seizin of the land intended to be conveyed by such deed or covenant. *b*

XV. ESTATES of every kind holden or possessed in trust, shall be subject to like debts and charges of the persons to whose use, or for whose benefit they were, or shall be, respectively holden or possessed, as they would have been subject to, if those persons had owned the like interest in the things holden or possessed, as they own or shall own in the uses or trusts thereof. *b*

XVI. WHERE any person to whose use, or in trust for whose benefit another is or shall be seized of lands, tenements, or hereditaments, hath or shall have such inheritance in the use or trust, as that if it had been a legal right, the husband or wife of such person would thereof have been entitled to curtesy or dower, such husband or wife shall have and hold, and may by the remedy proper in similar cases, recover curtesy or dower of such lands, tenements, or hereditaments. *b*

XVII. GRANTS of rents, or of reversions, or remainders, shall be good and effectual without attornments of the Tenants, but no Tenant who, before notice of the grant, shall have paid the rent to the grantor, shall suffer any damage thereby. *b*

XVIII. THE attornment of a Tenant to any stranger shall be void, unless it be with consent of the Landlord of such Tenant, or pursuant to, or in consequence of the judgment of a Court of Law, or the order or decree of a Court of Equity. *b*

XIX. ALL conveyances by Commissioners and Sheriffs hereafter to be made for lands sold in virtue of any decree or judgment of any Court within this Commonwealth, shall be, and they are hereby declared to be good and effectual, for passing the absolute title of such lands to the purchasers thereof, and all persons claiming under them, any Law to the contrary notwithstanding; saving to the Commonwealth, and to all and every person and persons, bodies politic and corporate, their respective heirs and successors, other than the parties to such conveyances, decrees or judgments, and those claiming under them, all such right, title, interest and demand, as they, every or any of them, would have had in case this Act had not been made.

XX. ALL and every Act and Acts, clause and clauses of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided nevertheless*, That nothing herein contained shall be construed to affect any right which may have accrued, or been vested before the commencement of this Act.

XXI. THIS Act shall commence in force, from and after the passing thereof.

Such estates may be disposed of by will or deed, and shall be subject to debts in the same manner as estates in fee-simple.

Every estate conveyed or devised to be deemed a fee-simple unless a less estate be limited.

When a contingent remainder shall be good, although there be no intermediate estate.

By what conveyances the possession of the grantor shall be transferred to the grantee without livery of seizin.

Trust estates subject to debts and charges as if the person held the like interest in the thing holden, as in the use thereof.

Trust estates subject to dower and curtesy.

Grants of rents, reversions, &c. good without attornments.

When attornment to a stranger shall be void.

Conveyances by commissioners and sheriffs under decrees and judgments of courts effectual for passing the title.

Repealing clause.

Commencement of this act.

CHAP. XCI.

An Act reducing into one, the several Acts concerning the Manner of authenticating Foreign Deeds, Records, and other Instruments in Writing.

[Passed the 8th of December, 1792.]

Preamble.

I. **W**HEREAS the intercourse between this State and the other States in the Union, and between this State and Foreign Nations, has become more considerable than heretofore, which renders it necessary that some mode should be adopted, to give authenticity to deeds and certain other instruments in writing, foreign judgments, specialties on record, registers of births and marriages, made, executed, entered into, given and enregistered by and between persons residing in any of the United States, or in any Foreign Kingdom, State, Nation, or Colony, beyond sea, and out of the jurisdiction of this State: *a*

How foreign deeds, & other instruments of writing must be authenticated to be admitted as evidence.

II. *BE it enacted by the General Assembly*, That all such deeds, if acknowledged by the party making the same, or proved by the number of witnesses requisite before any Court of Law, or the Mayor, or other Chief Magistrate of any City, Town, or Corporation of the Country in which the party shall dwell, certified by such Court, or Mayor, or Chief Magistrate, in the manner such acts are usually authenticated by them; and all policies of insurance, charter parties, powers of attorney, foreign judgments, specialties on record, registers of births and marriages, as have been, or shall be made, executed, entered into, given and enregistered in due form, according to the Laws of such State, Kingdom, Nation, Province, Island or Colony, and attested by a Notary Public, with a testimonial from the proper Officer of the City, County, Corporation, or Borough, where such Notary Public shall reside, or the great Seal of such State, Kingdom, Province, Island, Colony, or Place beyond sea, shall be evidence in all the Courts of Record within this Commonwealth, as if the same had been proved in the said Courts. *b*

Repealing clause.

Provisos

III. ALL and every Act, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed in any manner to alter the method of taking and certifying the privy examination of any *seme covert*, or in any other respect to alter or repeal the Act, intituled, "*An Act for regulating Conveyances*."

Commencement of this act.

IV. THIS Act shall commence in force, from the passing thereof.

CHAP. XCII.

An Act reducing into one, the several Acts concerning Wills, the Distribution of Intestates Estates, and the duty of Executors and Administrators.

[Passed the 13th of December, 1792.]

Who may dispose of their lands and tenements by will.

I. **B**E it enacted by the General Assembly, That every person aged twenty-one years or upwards, being of sound mind, and not a married woman, shall have power at his will and pleasure, by last will and testament in writing, to devise all the estate, right, title, and interest in possession, reversion or remainder, which he hath, or at the time of his death shall have, of, in, or to lands, tenements or hereditaments, or annuities or rents charged upon, or issuing out of them, so as such last will and testament be signed by the testator, or by some other person in his presence, and by his direction; and moreover, if not wholly written by himself, be attested by two or more credible witnesses, subscribing their names in his presence. *c*

Devise of lands or tenements must be in writing.
How to be attested.

Saving to widows their dower.

II. **SAVING** to the widows of testators their dower in such lands, tenements, rents, or annuities, according to the Laws, which shall not be prejudiced by any devise thereof. *c*

How such devises may be revoked.

III. NO devise so made, or any clause thereof, shall be revocable but by the Testator's destroying, cancelling, or obliterating the same, or causing it to be done in his presence, or by a subsequent will, codicil, or declaration in writing made as aforesaid. But every last will and testament, made when the Testator had no child living, wherein any child he might have is not provided for, or mentioned, if at the time of his death he leave a child, or leave his wife enient

A will made when the testator had no children not to affect those born afterwards,

(a) 1787, *ch.* 21, *sec.* 4, 5. (b) 1785, *ch.* 62. 1787, *ch.* 21. (c) 1785, *ch.* 61, *sec.* 1, 2.

of a child, which shall be born, shall have no effect during the life of such after born child, and shall be void, unless the child die without having been married, or before he or she shall have attained the age of twenty-one years. When a Testator shall leave children born, and his wife enfeint, the posthumous child or children, if it be unprovided for by settlement, and be neither provided for nor disinherited, but only pretermitted by the last will and testament, shall succeed to the same portion of the father's estate, as such child would have been entitled to, if the father had died intestate; towards raising which portion, the devisees and legatees shall contribute proportionably, out of the parts devised and bequeathed to them by the same will and testament. *a*

IV. NO person under the age of eighteen years, shall be capable of disposing of his chattels by will. *a*

V. NO nuncupative will shall be established, unless it be made in the time of the last sickness of the deceased at his habitation, or where he hath resided for ten days next preceding, except where the deceased is taken sick from home, and dies before he returns to such habitation; nor where the value exceeds thirty dollars, unless it be proved by two witnesses, that the Testator called on some person present to take notice or bear testimony that such is his will, or words of the like import. *a*

VI. AFTER six months have elapsed from the time of speaking the pretended testamentary words, no testimony shall be received to prove a nuncupative will, unless the testimony, or the substance thereof, shall have been committed to writing within six days after making the will. *a*

VII. NO will in writing, or any devise therein of chattels, shall be revoked by a subsequent will, codicil, or declaration, unless the same be in writing. *a*

VIII. ANY soldier in actual military service, or any mariner or seaman being at sea, may dispose of his chattels as he might heretofore have done. *a* †

IX. IF any person shall subscribe his name as a witness to a will wherein any bequest is given to him, if the will may be not otherwise proved, the bequest shall be void, and such witness shall be allowed and compellable to appear, and give testimony on the residue of the will, in like manner as if no such bequest had been made. But if such witness would be entitled to any share of the Testator's estate in case the will were not established, so much of his said shares shall be saved to him, as shall not exceed the value of the legacy bequeathed him. *a*

X. THE several District, County, or Corporation Courts, shall have power to hear and determine all causes, matters, suits and controversies testamentary, arising within their respective jurisdictions, and to examine and take the proof of wills, and grant certificates thereof, according to the methods and rules following; that is to say: If any Testator shall have a mansion-house, or known place of residence, his will shall be proved in the Court of the District, County, or Corporation, wherein such mansion-house, or place of residence is; if he have no such place of residence, and lands be devised in the will, it shall be proved in the Court of the District, County, or Corporation, wherein the lands lie, or in one of them where there shall be lands in several Districts or Counties; and if he hath no such known place of residence, and there be no lands devised, then the will may be proved, either in the Court of the District, County, or Corporation where the Testator shall die, or that wherein his estate, or the greater part thereof, shall be; or such will may in any case, be proved in the General Court. *a*

XI. WHEN any will shall be exhibited to be proved, the Court having jurisdiction as aforesaid, may proceed immediately to receive the probat thereof, and grant a certificate of such probat: If however, any person interested, shall within seven years afterwards appear, and by his bill in Chancery contest the validity of the will, an issue shall be made up, whether the writing produced be the will of the Testator or not, which shall be tried by a Jury, whose verdict shall be final between the parties; saving to the Court a power of granting a new trial for good cause, as in other trials; but no such party appearing within that time, the probat shall be forever binding: Saving also to infants,

A posthumous child pretermitted in his father's will, to have the same portion of his estate as if he had died intestate.

No person under the age of 18 to dispose of his chattels by will.

Rules concerning nuncupative wills.

Where they shall not be of force.

How devises of chattels may be revoked.

Soldiers and seamen may dispose of their chattels as heretofore.

Where bequests to the witnesses shall be void.

District and county courts may take proof of wills, and grant administrations.

Probat to be received when the will is exhibited.

But the validity thereof may be contested by any interested within seven years thereafter.

(a) 1785, ch. 61, sec. 3, 4, 5, 6, 7, 8, 9, 10. † Soldiers and seamen were authorised to make nuncupative wills by stat's 29, char. 2, c. 3 and 5, W. 3, c. 21, which were considered as never in force in this country—Quere therefore the effect of this clause—Vide 1 B. Com 417.

femes covert, and persons absent from the state, or *non compos mentis*, the like period after the removal of their respective disabilities. *a*

XII. IN all such trials by Jury, the certificate of the oath of the witnesses at the time of the first probat, shall be admitted as evidence, to have such weight as the Jury shall think it deserves. *b*

How wills may be proved by witnesses residing out of the commonwealth.

XIII. IT shall be lawful for any Court when any will shall be produced to them for probat, and any witness attesting the same shall reside out of the Commonwealth, to issue a commission or commissions annexed to such will, and directed to the presiding Judge of any Court of Law, or to any Notary Public, Mayor, or other Chief Magistrate of any City, Town, Corporation, or County, where such witness may be found, authorizing the taking and certifying his attestation. If the person to whom any such commission shall be directed, shall certify in the manner such acts are usually authenticated by him, that the witness personally appeared before him and made oath, or solemn affirmation (as the case may require) that the Testator signed and published the writing annexed to such commission as his last will and testament, or that some other person signed it by his direction, that he was of disposing mind and memory, and that he subscribed his name thereto in the presence of the Testator, and at his request, such oath or affirmation shall have the same operation, and the will be recorded in like manner, as if such oath or affirmation had been made in the Court from whence such commission issued. *c*

Copies of wills proved in other states or countries, may be proved & recorded in the courts of this commonwealth.

XIV. AUTHENTICATED copies of wills proved according to the Laws of any of the United States, or of Countries without the limits of the same, and relative to any estate within this Commonwealth, may be offered for probat in the General Court; or where the estate so devised shall lie altogether in any one County or District, the Court of such County or District respectively may admit to record any such authenticated copies, but the bond and oath of the executor or administrator, with the will annexed, shall be changed from the bond and oath required by Law in other cases, in such manner as to the said Court shall seem necessary, and the proof to be made by the witnesses shall be conformed to the nature of the case. But such will shall be liable to be contested and controverted in the same manner as the original might have been. *d*

The validity thereof may be contested as the originals might have been.

The executors named therein entitled to probat.

And administration granted where there are none, or they refuse to qualify.

XV. ALL persons named as executors in any such will, shall, after the copy thereof has been admitted to record as above directed, be entitled to a probat of the said will, in the same manner as if the original will had been proved in such Court. And where there shall be no executors named in the said will, or the executors therein named, shall all of them refuse the executorship, the Court shall have the same power and authority to hear and determine the right of administration, and to grant a certificate for obtaining letters of administration, with the will annexed, as if the original will had been proved in Court. *e*

nuncupative wills proved.

XVI. NO nuncupative will shall be proved within fourteen days after the death of the Testator, nor until his widow (if any) and next of kin, have been summoned to contest the same, if they please. *f*

Who person possessed of their will may be called to produce it.

XVII. IF the General Court, or any District, County, or Corporation Court, having jurisdiction as aforesaid, shall be informed that any person hath the will of a Testator in his custody, such Court may summon such person, and by a proper process, compel him to produce the same. *f*

Where executors refuse, administration with the will annexed shall be granted.

XVIII. IF the executors named in any will shall all refuse the executorship, or being required to give security as herein after mentioned, shall refuse or fail to give the same, which shall amount to a refusal of the executorship, in either case, the Court having jurisdiction as aforesaid, may receive the proof of the will, and grant a certificate for obtaining letters of administration with the same annexed, to the person to whom administration would have been granted, if there had been no will of the deceased. *f*

Executors and administrators shall be sworn.

XIX. BEFORE granting a certificate of the probat of any will, the executor or administrator, with the will annexed (as the case may be) shall in open Court take the following oath, to wit:

Oath of an executor or administrator with the will annexed.

YOU shall swear that this writing contains the true last will of the within named, as far as you know or believe; and that you will well and truly perform the same by paying first his debts, and then the legacies contained in the said will, as far as his goods, chattels and credits will extend, and the Law

(a) 1785, ch. 61, sec. 11. 22d Geo. 2d, ch. 3, sec. 4. (b) 1785, ch. 61, sec. 12. (c) 1787, ch. 21, sec. 2. (d) 1789, ch. 13, sec. 7. (e) 1787, ch. 21, sec. 7. (f) 1785, ch. 61, sec. 13, 15.

charge you; and that you will make a true and perfect inventory of all the said goods, chattels and credits, as also a just account when thereto required.

And shall also give bond, in such penalty, as will be equal to the full value of the estate at the least, and with such security as shall be approved of by the Court, with the following condition, to wit:

THE condition of this obligation is, that if the said *executor of Bond.*
the last will and testament, (or administrator with the will annexed, of all the goods, chattels and credits) of *deceased,* do make a true and perfect inventory of all and singular, the goods, chattels and credits of the said deceased, which have, or shall come to the hands, possession, or knowledge of *the said*
son or persons for *or into the hands or possession of any other person*
and the same so made, do exhibit into the
Court of *at such time as* *shall be thereto*
required by the said Court and the same goods, chattels, and credits, do well and truly administer according to Law and make a just and true account of *allings and doings therein, when thereunto required by the said Court; and further,*
do well and truly pay and deliver all the legacies contained and specified in the said will, as far as the said goods, chattels, and credits will extend according to the value thereof, and as the Law shall charge *then this obligation to be*
void or else to remain in full force. (a)

XX. WHICH bond shall be payable to the Judges or Justices sitting in Court, and their successors, and shall not become void upon the first recovery, but may be put in suit and prosecuted from time to time, by and at the costs of any party injured by a breach thereof, until the whole penalty be recovered thereupon. a

The whole penalty recoverable thereon.

XXI. BUT where any Testator shall leave visible estate, more than sufficient to pay all his debts, and by will shall direct that his executors shall not be obliged to give security, in that case no security shall be required, unless the Court shall see cause from their own knowledge, or the suggestions of creditors or legatees, to suspect the executors of fraud, or that the Testator's personal estate will not be sufficient to discharge all his debts, and shall require security, when the same shall be given, before a certificate shall be granted, notwithstanding any directions to the contrary in the Testator's will. a

When executors shall not be obliged to give security.

XXII. THE power of executors over their Testator's estates before probat of the will, is not hereby restrained, but shall continue as heretofore. a

Their power before probat.

XXIII. DURING any contest about a will, or during the infancy, or in the absence of an executor, or until a will which may have once existed, but is destroyed, shall be established, or whenever the Court from any other cause shall judge it convenient, they may appoint any person or persons to collect and preserve the estate of any decedent, until a probat of his will, or *durante minore etate,* or until administration of his estate be granted, taking bond and security for collecting the estate, making an inventory thereof, and safe keeping and delivering up the same when required, to the executors or administrators. a

In what cases the court shall appoint a person to collect and preserve a decedent's estate.

XXIV. THE bond and oath of the administrator or appointee in such cases, shall be changed from the bond and oath of an administrator in ordinary cases, in such manner as to the said Courts, or any of them, shall seem necessary. a

XXV. WHEN any widow shall not be satisfied with the provision made for her by the will of her husband, she may within one year from the time of his death, before the General Court, or Court having jurisdiction of the probat of his will as aforesaid, or by deed executed in the presence of two or more credible witnesses, declare that she will not take or accept the provision made for her by such will, or any part thereof, and renounce all benefit which she might claim by the same will; and thereupon such widow shall be entitled to one third part of the slaves whereof her husband died possessed, which she shall hold during her life, and at her death they and their increase, shall go to such person or persons, to whom they would have passed and gone, if such declaration had not been made; and she shall moreover be entitled to such share of his other personal estate, as if he had died intestate, to hold to her as her absolute property; but every widow not making a declaration within the time aforesaid, shall have no more of her husband's slaves and personal estate, than is given her by his will. a

Widow not satisfied with the provision made for her by her husband's will, may renounce her legacy and demand her dower of the slaves and her proportion of the personal estate.

XXVI. ALL original wills shall be recorded, and shall also remain in the Clerk's office of the Court wherein they are respectively proved, except during such time as they may be in any Superior Court, having been removed thither for inspection by *certiorari*, or otherwise, after which they shall be returned to the said Office. a

Original wills to be recorded and remain in the clerk's office.

Intestates' estates, how to be distributed amongst their representatives.

Rules in granting administration of intestates' estates.

Wills may be proved after administration granted. Distributee may obtain administration although it may have been previously granted to a creditor or other person.

Administrators' oath.

Bond.

XXVII. WHEN any person shall die intestate as to his goods and chattels, or any part thereof, after funeral debts and just expenses paid, if there be no child, one moiety, or, if there be a child or children, one third of the surplus shall go to the wife, but she shall have no more than the use for her life of such slaves as shall be in her share, and the residue of the surplus, and after the wife's death, the slaves in her share, or, if there be no wife, then the whole of such surplus shall be distributed in the same proportions, and to the same persons, as lands are directed to descend in and by an Act of the General Assembly, intituled, "*An Act to reduce into one, the several Acts directing the course of descents.*" Nothing in this Act contained, shall be understood so as to compel the husband to make distribution of the personal estate of his wife dying intestate. Where any children of the intestate, or their issue, shall have received from the intestate in his lifetime, any personal estate by way of advancement, and shall choose to come into the distribution with the other persons entitled, such advancement shall be brought into hotchpot with the distributable surplus. *a*

XXVIII. THE General Court, and the several Courts respectively, shall have the like jurisdiction to hear and determine the right of administration of the estates of persons dying intestate, as is herein before mentioned, as to the proof of wills, in respect to the intestate's place of residence, or death, or where the estate shall lie, and shall grant certificates for obtaining such administration, to the representatives who apply for the same; preferring first the husband or wife, and then such others as are next entitled to distribution, or one, or more of them, as the Court shall judge will best manage and improve the estate. *a*

XXIX. IF no such person applies for administration within thirty days from the death of an intestate, or at the next succeeding Court after the expiration thereof, the Court may grant administration to any creditor or creditors who apply for the same, or to any other person the Court shall, in their discretion, think fit. *a*

XXX. BUT if any will shall afterwards be produced, and proved by Executors, or the wife, or other distributee, who shall not have before refused, shall apply for the administration, the same shall be granted, in like manner as if the former had not been obtained. *a*

XXXI. BEFORE granting a certificate for the administration of any estate, the person or persons to whom the same is granted, shall, in open Court, take the following oath, to wit:

YOU shall swear that *a*, deceased, died without any will, as far as you know or believe. and that you will well and truly administer all and singular the goods, chattels, and credits of the said deceased, and pay his debts, as far as his goods, chattels and credits will extend and the Law require you; and that you make a true and perfect Inventory of all the said goods, chattels, and credits, as also a just account when thereunto required. So help you GOD. (*a*)

XXXII AND shall also give bond, in a penalty at least equal to the value of the estate, and with such security as shall be approved by the Court, with the following condition, to wit:

THE condition of this obligation is, That if the said *a*, administrator of the goods, chattels, and credits of *a*, deceased, do make a true and perfect inventory of all and singular the goods, chattels, and credits of the said deceased which have, or shall come, to the hands, possession, or knowledge of *a*, the said *a*, or in the hands or possession of any other person or persons, for *a*, and the same so made, do exhibit into the Court, *a*, when he shall be thereto required by the said Court; and such goods, chattels, and credits, do well and truly administer, according to Law; and further do make a just and true account of his doings and doings therein, when thereto required by the said Court; and all the rest of the said goods, chattels, and credits, which shall be found remaining upon the account of the said administrator the same being first examined and allowed by the Justices of the said Court for the time being, shall deliver and pay unto such persons, respectively, as are entitled to the same by Law; and if it shall hereafter appear, that any last will and testament was made by the deceased, and the same be proved in Court, and the executor obtain a certificate of the probat thereof, and the said *a*, do, in such case, being required, render and deliver up his letters of administration, then this obligation to be void, else to remain in full force.

Which bond shall be payable to the sitting Justices, and their successors, and may

be put in suit and prosecuted in like manner as is before directed in the case of bonds to be given by executors or administrators, with the will annexed. *a*

XXXIII. BUT no security for any executor or administrator, shall be chargeable beyond the assets of the Testator or Intestate, by reason of any omission or mistake in pleading, or false pleading of such executors or administrators. *a*

XXXIV. IF any Court shall grant a certificate for obtaining administration of the estate of any person deceased, without taking good security for the same, as aforesaid, to be judged of according to the apparent circumstances of the security, when taken, and not from subsequent accidents or discoveries thereof, the Justices of such Court then sitting, shall be answerable to the person or persons injured, for all loss or damage occasioned by the not requiring any, or, by the taking insufficient security, recoverable with costs, by action on the case, in any Court of Record. *a*

XXXV. WHEN securities for executors or administrators conceive themselves in danger of suffering thereby, and petition the Court for relief, the Court shall summon the executor or administrator, and make such order or decree thereupon, to relieve and secure the petitioners, by counter-security, or otherwise, as to them shall seem just and equitable. *a*

XXXVI. ALL certificates of probat or administration, attested by the Clerk, shall enable the executor or administrator to act, and may be produced, or given in evidence in any Court within this Commonwealth, and be as effectual as any probat or letters of administration made out in due form: *Nevertheless*, the Clerks of the Courts shall, when required by an executor or administrator, make out such probat or letters in due form, in the name of the first Justice of the Court; which probat or letters shall be signed by such Justice, and sealed with the District, County, or Corporation seal, if the will be proved in a District, County, or Corporation Court, or with the seal of the Commonwealth, if proved in the General Court. *a*

XXXVII. THE Clerk of every District, County, or Corporation Court, shall annually, on or before the first day of October, return to the Clerk of the General Court, a list of all certificates granted in his Court for probats and administrations within the preceding year, in this form [date of certificate] [name of Testator or Intestate] [names of securities] [penalty of bond.] Which lists, together with such certificates as are granted in the General Court, shall be entered by the Clerk of the General Court, alphabetically, in books to be kept for that purpose. *a*

XXXVIII. EVERY Court granting a certificate for a probat or administration, shall nominate three or more appraisers in every County or Corporation, where any of the personal estate of the decedent shall be, who, being sworn before a Justice of the Peace for that purpose, shall truly and justly, to the best of their judgment, view and appraise all the personal estate to them produced, and shall return such appraisement under their hands to the Court ordering the same; which appraisement, if signed by the executor or administrator, may be considered as an inventory of such part of the estate, as had heretofore come to his hands. *a*

XXXIX. INVENTORIES and appraisements may be given in evidence in any suit by or against the executor or administrator, but shall not be conclusive for or against him, if other testimony be given that the estate was really worth, or was, *bona fide*, sold for more or less than the appraisement. *a*

XL. EACH appraiser shall be entitled to fifty cents per day, for his attendance, to be paid by the executor or administrator, and charged to the estate. *a*

XLI. EXECUTORS and administrators, whether it be necessary for payment of debts, or not, shall, as soon as convenient after they are qualified, sell at public sale, all such goods of their Testator or Intestate, specific legacies excepted, as are liable to perish, be consumed, or rendered worse by keeping, giving such credit as they shall judge best, and the circumstances of the estate will admit of, taking bond and good security of the purchasers, and shall account for such goods according to the sales: If more be sold than will pay the debts and expenses, the executor or administrator may assign the bonds for the surplus, to those entitled to the estate, and be discharged as to so much; and if after such assignment, the obligor become insolvent so as the money be lost, without the fault or neglect of the assignee, then such loss shall be made good to the assignee out of the decedent's estate. *a*

Securities how far chargeable in case of false pleading by executors or administrators.

Where good security shall not be taken, the justices liable.

How securities may be indemnified.

Certificates of probat or administration attested by clerks of court, as effectual as a probat or letters of administration in form
Clerks when required to make them out in due form.

Lists of probats and administrations in the general, district, and county courts, to be recorded in the general court.

Appraisers to be appointed.

Inventories & appraisements how far evidence for or against executors and administrators.

Allowance to appraisers.

Duty of executors and administrators in selling perishable goods, specific legacies excepted.

In selling the other personal estate.

XLII. IF such perishable goods be not sufficient for paying the debts and expenses, the executor or administrator shall proceed in the next place, to sell the other personal estate, until the debts and expenses be all paid, having regard to the privilege of specific legacies. *a*

Where no appraisement shall be necessary.
Where the estate shall not be sold.

XLIII. NEVERTHELESS, if the Testator direct his estate not to be appraised, it shall be sufficient to return an inventory thereof only; and if he direct his estate not to be sold, the same shall be preserved in specie, unless a sale be necessary for the payment of debts. *a*

Dead victuals and liquors to remain for the use of the family.

XLIV. THE dead victuals and liquors, which at the death of any Testator or Intestate, shall have been laid in for consumption in his family, shall not be sold by the executor or administrator, but shall remain for the use of such family, without account thereof to be made: If, however, before its final consumption, any child shall leave the family, such child shall have a right to carry with him or her, an equal share of what shall then be on hand. Any live stock which may be necessary for the food of the family, may also be killed for that use, at any time before the sale, division or distribution of the estate. *a*

Sale and conveyance of lands devised to be sold, by whom to be made,

XLV. THE sale and conveyance of lands devised to be sold, shall be made by the executors, or such of them as shall undertake the execution of the will, if no other person be thereby appointed for that purpose, or if the person so appointed shall refuse to perform the trust, or die before he shall have completed it. But if none of the executors named in such will shall qualify, or after they have qualified, shall die before the sale and conveyance of such lands, then in those cases, the sale and conveyance thereof, shall be made by such person or persons to whom administration of the Testator's estate, with the will annexed, shall be granted. *a*

Rules concerning servants, slaves, and crops.

XLVI. IF any person shall die after the first day of *March*, the servants and slaves of which he was possessed, whether held for life or for other interest, and which were employed in making a crop, shall be continued on the plantations in the occupation of the decedent, until the last day of *December* following, and then delivered to those who shall have a right to demand the same; and their crops shall be assets in the hands of the executors and administrators, subject to debts, legacies and distribution; the levies and taxes, their tools, the expense of feeding them and their families to that time, and delivering them well clothed, being first deducted. And if such slaves or servants be held by the Testator or Intestate for his or her life only, in that case the executor or administrator shall be obliged to deliver, to those who are entitled in remainder or reversion, three barrels of *Indian* corn for every such servant or slave, old and young, to be allowed in their accounts of administration. *a*

Where tenant for life, of lands or slaves let or hired to another, dies after first *March*.

XLVII. IF a Testator or Intestate shall die after the first day of *March*, all the emblements of his lands which shall be severed before the thirty-first day of *December* following, shall in like manner be assets in the hands of the executor or administrator, but all such emblements growing on the lands on that day, or at the time of the death of the Testator or Intestate, if that event happen after the thirty-first day of *December*, and before the first day of *March*, shall pass with the land to the heir, devisee, reversioner, or remainder man. *a*

To whom the rent shall be paid, where tenant for life of lands or slaves dies before it becomes due.

XLVIII. IF there be Tenant for life of lands or slaves let or hired to another, at the death of such Tenant for life, if that event happen after the first day of *March*, the lessee or person hiring, shall hold the lands and slaves until the last day of *December* following, paying rent or hire to that time, and in the case of slaves, delivering them well clothed. *a*

Debt not extinguished by appointing a debtor executor.

XLIX. THE rent of land or hire of slaves shall be apportioned between the executor or administrator of him, who having a freehold, or other uncertain estate in the land, and the use for life, or for other uncertain term in the slaves, shall die before the rent or hire become due, and him who shall succeed to the lands and slaves, as heir, devisee, or person in reversion or remainder, unless in the case of a devisee, the contrary be directed by the Testator. *a*

When distribution of intestates' estates is to be made.

L. THE appointment of a debtor executor shall in no case be deemed an extinguishment of the debt, unless it be so directed in the will. *a*

LI. NO distribution shall be made of an Intestate's estate until nine months after his death, nor shall an administrator be compelled to make distribution at any time, until bond and security be given by the person entitled to distribution, to refund due proportions of any debts or demands, which may afterwards appear against the Intestate, and the costs attending the recovery of such debts. *a*

(a) 1785, ch. 61, sec. 30, 40, 41, 42, 43, 44, 45, 46, 47, 48.

LII. EXECUTORS and administrators shall be allowed in their accounts all reasonable charges and disbursements which they shall lay out and expend in the funeral of the deceased, and other their administration, and may be allowed such recompence for their personal trouble, as the Court on passing their accounts, shall judge reasonable. *a*

LIII. THE executors or administrators of a guardian, of a committee, or of any other person, who shall have been chargeable with, or accountable for the estate of a ward, an idiot, or a lunatic, or the estate of a dead person, committed to their Testator or Intestate by a Court of Record, shall pay so much as shall be due from the Testator or Intestate, to the ward, idiot, or lunatic, or to the legatees, or persons entitled to distribution, before any proper debt of their Testator or Intestate. *a*

LIV. WHERE any person shall die seized of lands held for life of another, such person may, by his or her last will and testament in writing, made and proved, as is herein before directed for the devise of lands, devise all his interest in such lands, which shall, if necessary, be assets in the hands of such devisee. And if so such devise be made, such lands for the residue of the term shall be assets in the hands of the heir, if it shall come to him by reason of a special occupancy, in the same manner as lands descending in fee-simple; and if there be no special occupant, it shall go to the executors or administrators of the person so dying seized, and be assets in their hands, subject to debts, legacies, and distribution. *a*

LV. EXECUTORS or administrators may sue, or be sued upon all judgments, bonds, or other specialties, bills, notes, or other writings of their Testators or Intestates, whether the executors or administrators be, or be not named in such instruments, and also upon all their personal contracts. *a*

LVI. IF any suit shall be brought against any executor or administrator for the recovery of a debt due upon an open account, it shall be the duty of the Court before whom such suit shall be brought, to cause to be expunged from such account, every item thereof which shall appear to have been due five years before the death of the Testator or Intestate. Saving to all persons *non compos mentis*, *femes covert*, infants, imprisoned, or out of this Commonwealth, who may be plaintiffs in such suits, three years after their several disabilities removed; and if any person shall wilfully post-date any such account, he shall forfeit and pay ten fold the amount of the articles so post-dated; to be recovered by action of debt in any Court of Record, where the penalty incurred shall exceed twenty dollars, and by petition where the penalty incurred shall be under that sum.

LVII. NO action of debt shall be brought against any executor or administrator upon a judgment obtained against his Testator or Intestate, nor shall any *scire facias* be issued against any executor or administrator to revive such judgment after the expiration of five years from the qualification of his executor or administrator, and all such judgments after the expiration of five years, upon which no proceedings shall have been had, shall be deemed to have been paid and discharged. Saving to all persons *non compos mentis*, *femes covert*, infants, imprisoned, or out of this Commonwealth, who may have been entitled to the benefit of any such judgment, three years after their several disabilities removed.

LVIII. ACTIONS of trespass may be maintained by or against executors or administrators, for any goods taken or carried away in the lifetime of the Testator or intestate, and the damages recovered shall be, in the one case, for the benefit of the estate, and in the other, out of the assets. *a*

LIX. EXECUTORS of executors shall do and perform all things in the execution of the will of the first Testator, which shall remain undone at the death of the first executor; and shall and may sue, or be sued, in all things respecting the estate, in the same manner as such first executor could or might have sued, or been sued. *a*

LX. THE executor or administrator of an executor in his own wrong, and the executor or administrator of a rightful executor or administrator, by whom any waste shall have been committed, shall be chargeable in the same manner as his Testator or Intestate might have been. *b*

LXI. IF all the executors named in any last will shall refuse to undertake the executorship, or being required to give security, shall refuse to give or be unable to procure the same, and no person will apply for administration with

Executors or administrators to be allowed all just expenses. And a reasonable recompence for their trouble.

Executors or administrators of guardians, committees, or of executors or administrators, to pay debts due from their testators to wards, idiots, legatees, &c. before any other debts.

Tenant of lands held for the life of another, may devise his interest therein.

How it shall be disposed of where there is no such devise.

In what cases executors or administrators may be sued.

In suits against executors or administrators on open accounts, courts to expunge all items due five years before the death of the testator.

Penalty for post-dating such accounts.

Within what time actions of debt must be brought, and writs of *scire facias* issued against executors or administrators on judgments against their testators or intestates.

Executors or administrators may maintain trespass for goods taken from their testators or intestates.

Duty of executors of executors as to the will of the first testator.

Executors or administrators of executors or administrators, chargeable for waste done by their testators or intestates.

How the estates of deceased persons are to be disposed of when

(a) 1785, *ch. 61, sec. 49, 50, 51, 52, 53, 54.* (b) 22 *Geo. 2, ch. 3, sec. 36.*

the executors refuse to qualify and no person applies for administration.

the will annexed: Or, if no person will apply for administration of the goods and chattels of any Intestate, it shall be lawful for the General Court, or other Court having jurisdiction of such probat or administration, as herein before mentioned, after the expiration of three months from the death of the Testator or Intestate, to order the Sheriff or other Officer of the County or Corporation, to take the estate into his possession, and make sale of so much thereof by public auction, as the payment of debts shall make necessary, or as shall be perishable, or be directed by will to be sold: And all sales and conveyances, *bona fide* made by the Sheriff or his deputies, or other Officer, in consequence of such order, shall be as effectual to the purchasers, as if they had been made by the Testator or Intestate in his lifetime. The estate shall be sold upon such credit as the Court shall direct, and upon public notice previously given, the purchasers giving bond and good security for payment according to the limited time of credit. The Sheriff or other Officer may sue, if necessary, for recovery of debts, or of goods and chattels, and shall make a true and perfect inventory of the whole estate, and an account of sales, and shall return the same, together with the bonds, to the Court by whom he was ordered to sell, without delay, who shall first direct the payment of such debts as shall be proved before them, and proportion the assets amongst the creditors, without regard to the dignity of debts, where there shall not be sufficient to pay the whole; but if there be sufficient, they may order the surplus, if any, to the legatees or next of kin to the decedent, according to the directions of the will, or of this Act. Whereupon the Sheriff, or Deputy, or other Officer, shall assign the bonds and deliver the estate remaining unsold, to the creditors or others according to such order, retaining nevertheless his commissions, which shall be the same upon the estate by him sold, as is allowed for goods taken in execution; and where the whole estate is not sold, he shall moreover be allowed his reasonable expenses and disbursements in the care of the part unsold. *a*

Former sales and conveyances by sheriffs of lands devised to be sold, where the executor refused to act, confirmed: Repealing clause. Proviso.

LXII. ALL sales and conveyances of lands heretofore *bona fide* made by a Sheriff or other Officer, under any order of Court where the lands had been devised to be sold, and the executor had refused to act, are hereby confirmed and made effectual against all persons claiming under the Testator. *a*

LXIII. ALL and every Act, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided nevertheless*, that nothing in this Act contained, shall be construed to affect any right which may have accrued or been vested before the commencement of this Act.

Commencement of this act.

LXIV. THIS Act shall commence in force, from and after the passing thereof.

CHAP. XCIII.

An Act to reduce into one, the several Acts directing the Course of Descents. †

[Passed the 8th of December, 1792.†]

Real estate of inheritance of persons dying intestate, to descend in parcenary to their kindred.

Course of descents.

I. **B**E it enacted by the General Assembly, That henceforth when any person having title to any real estate of inheritance, shall die intestate as to such estate, it shall descend and pass in parcenary to his kindred, male and female, in the following course; that is to say: *b*

II. TO his children or their descendants, if any there be: *b*

III. IF there be no children, nor their descendants, then to his father: *b*

IV. IF there be no father, then to his mother, brothers and sisters, and their descendants, or such of them as there be. *b*

V. *PROVIDED, nevertheless*, That where an infant shall die without issue, having title to any real estate of inheritance, derived by purchase or descent from the father, neither the mother of such infant nor any issue which she may have by any person, other than the father of such infant, shall succeed to, or enjoy the same, or any part thereof, if there be living any brother or sister of such infant on the part of the father, or any brother or sister of the father, or

(a) 1785, ch. 61, sec. 55, 56. † An act of Dec. Session 1801, pa. 12, ch. 13, provides for the Distribution of unbequeathed Personal Estate. The act of '85, ch. 60, took effect January 1, 1787. The act of 1790, ch. 13, took effect March 1st, 1791. See act of 1789, ch. 9.—This act took effect from passing thereof, but was suspended—See ch. 150, post, from Dec. 28, 1792, to Oct. 1st, 1773.
(b) 1785, ch. 60, sec. 1, 2, 3, 4.

any lineal descendant of either of them. Saving however, to such mother any right of dower which she may claim in the said real estate of inheritance. *a*

VI. *AND provided also*, That where an infant shall die without issue, having title to any real estate of inheritance, derived by purchase or descent from the mother, neither the father of such infant, nor any issue which he may have by any person other than the mother of such infant, shall succeed to, or enjoy the same or any part thereof, if there be living any brother or sister of such infant on the part of the mother, or any brother or sister of the mother, or any lineal descendant of either of them. Saving however, to such father the right which he may have as tenant by the curtesy in the said estate of inheritance. *a*

VII. IF there be no mother, nor brother, nor sister, nor their descendants, and the estate shall not have been derived either by purchase or descent, from either the father or the mother, then the inheritance shall be divided into two moieties, one of which shall go to the paternal, the other to the maternal kindred, in the following course; that is to say: *b*

VIII. FIRST, to the grand-father. *b*

IX. IF there be no grand-father, then to the grand-mother, uncles, and aunts on the same side, and their descendants, or such of them as there be: *b*

X. IF there be no grand-mother, uncle nor aunt, nor their descendants, then to the great grand-fathers, or great grand-father, if there be but one: *b*

XI. IF there be no great grand-father, then to the great grand-mothers, or great grand-mother, if there be but one, and the brothers and sisters of the grand-fathers and grand mothers, and their descendants, or such of them as there be: *b*

XII. *AND* so on in other cases, without end; passing to the nearest lineal male ancestors, and for the want of them to the lineal female ancestors in the same degree, and the descendants of such male and female ancestors, or to such of them as there be. *b*

XIII. *BUT* no right in the inheritance shall accrue to any persons whatever, other than to children of the intestate, unless they be in being, and capable in law to take as heirs, at the time of the intestate's death. *b*

XIV. *AND* where, for want of issue of the intestate, and of father, mother, brothers and sisters, and their descendants, the inheritance is before directed to go by moieties to the paternal and maternal kindred; if there should be no such kindred on the one part, the whole shall go to the other part: And if there be no kindred either on the one part or the other, the whole shall go to the wife or husband of the intestate. And if the wife or husband be dead, it shall go to her or his kindred in the like course, as if such wife or husband had survived the intestate, and then died entitled to the estate. *b*

XV. *AND* in the cases beforementioned, where the inheritance is directed to pass to the ascending and collateral kindred of the intestate, if part of such collaterals be of the whole blood to the intestate, and other part of the half blood only, those of the half blood, shall inherit only half so much as those of the whole blood; But if all be of the half blood, they shall have whole portions, only giving to the ascendants (if any there be) double portions. *b*

XVI. *AND* where the children of the intestate, or his mother, brothers and sisters, or his grand-mother, uncles and aunts, or any of his female lineal ancestors living, with the children of his deceased lineal ancestors, male and female in the same degree, come into the partition, they shall take *per capita*, that is to say, by persons; and where a part of them being dead, and a part living, the issue of those dead have right to partition, such issue shall take *per stirpes*, or by stocks, that is to say, the share of their deceased parent. *b*

XVII. *AND* where any of the children of the intestate, or their issue, shall have received from the intestate in his life-time, any real estate by way of advancement, and shall choose to come into partition with the other partitioners, such advancement shall be brought into hotchpot with the estate descended. *b*

XVIII. IN making title by descent, it shall be no bar to a party that any ancestor through whom he derives his descent from the intestate, is, or hath been an alien. Bastards also shall be capable of inheriting or of transmitting inheritance on the part of their mother, in like manner as if they had been lawfully begotten of such mother. *b*

None except the children of the intestate to take, unless in being at the intestate's death.

Rule where the inheritance is to go by moieties to the paternal and maternal kindred.

Where some are of the whole and others of the half blood.

Where they shall take *per capita*.

Where *per stirpes*.

Children receiving real estate in advancement, may bring it into hotchpot and come into partition.

Alienage of an ancestor no bar in title by descent. Bastards capable of inheriting and transmitting inheritance on the part of the mother.

(a) 1790, ch. 13, sec. 3, 14. (b) 1785, ch. 60, sec. 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16.

When bastards shall be legitimated.
Issue in marriages null in law, legitimate.

When lands of persons dying intestate, may be sold.

One parcener may maintain waste against another.

Rights of parceners equal in elections, divisions, &c.

Repealing clause.
Proviso.

Commencement of this act.

XIX. WHERE a man having by a woman one or more children, shall afterwards intermarry with such woman, such child or children, if recognized by him, shall be thereby legitimated. The issue also in marriages deemed null in Law, shall nevertheless be legitimate. *a*

XX. WHENSOEVER any lands shall descend from any person dying intestate to two or more heirs, any one of whom shall be an infant, *feme covert*, *non compos mentis*, or beyond sea, and the dividend of each heir shall not exceed the value of one hundred dollars, in the opinion of any Court herein after mentioned, it shall be lawful for the High Court of Chancery, or the Court of the County or Corporation in which such lands, or the greater quantity of them lie, to direct the sale of the said lands, and the distribution of the money arising therefrom, according to the rights of each claimant: *Provided always*, that each heir residing within this Commonwealth, shall be first duly summoned, to shew cause if any he can against such sale: And where any heir shall reside without this Commonwealth, the Court shall make an order for publication, which order being inserted in the *Virginia Gazette* for eight weeks successively, shall be considered as a summons. *b*

XXI. ONE parcener may maintain an action of waste against another, but no parcener shall have or possess any privilege over another in any election, division or matter to be made or done, concerning lands which shall have descended to them. *b*

XXII. ALL and every Act and Acts, clauses and parts of Acts heretofore made, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing herein contained, shall be construed in any wise to affect any right, title, interest or claim to, or in any estate in lands or tenements whatsoever, accrued before the commencement of this Act, but the same shall be, and remain in the same condition, as if this Act had never been made.

XXIII. THIS Act shall commence in force, from and after the passing thereof.

CHAP. XCIV.

An Act to reduce into one, all Acts and Parts of Acts relating to Dower.

[Passed the 6th of December, 1792.]

Widows entitled to dower.

I. **B**E it enacted by the General Assembly, That the widow of any person dying intestate, or otherwise, shall be endowed of one full and equal third part of all the lands, tenements, and other real estate, whereof her husband, or any other to his use, was seized of an estate of inheritance, at any time during the coverture, to which she shall not have relinquished her right of Dower, by deed executed, acknowledged, and recorded, in the manner prescribed by Law for that purpose. *c*

And may remain in the mansion house & plantation until dower be assigned.

II. AND till such Dower shall be assigned, it shall be lawful for her to remain and continue in the mansion house, and the messuage or plantation thereto belonging, without being chargeable to pay the heir any rent for the same; any Law, usage, or custom to the contrary in any wise, notwithstanding. *c*

Remedy in case they are in the meantime deforced thereof.

III. AND if she be thereof in the mean time deforced, she shall have a vicontiel writ, in the nature of a writ *de quarentina habenda*, directed to the Sheriff; whereupon such proceedings and speed shall be used, as hath or might have been used on the said writ of quarentine. *d*

Damages for deforcing widows of their dower.

IV. WHOSOEVER shall deforce widows of their Dowers of the lands whereof their husbands died seized, or of such mansion house or plantation, if the same widows shall afterwards recover by plea, they that be convicted of such wrongful deforcement, shall yield damages to the same widows; that is to say, the value of the whole Dower to them belonging, from the time of the death of their husbands, unto the day that the said widows by judgment have recovered seizin of their Dower. *d*

What exception of the tenant shall not abate a writ of dower.

V. IN a writ of Dower called *unde nihil habet*, the writ shall not abate by the exception of the Tenant, because the demandant hath received her Dower of another man, before her writ purchased, unless he can shew that the Dower so received was in satisfaction of her right of Dower in the lands whereof she demands Dower. *d*

(a) 1785, ch. 60, sec. 17. (1) 1792, ch. 13, sec. 1. 6. (c) 1705, ch. 7, sec. 8. 1785, ch. 62. (d) 1785, ch. 11, sec. 1. 2.

VI. IN case where the husband being impleaded for land by default, the woman after his death demanding her Dower shall be heard, and if it be alledged against her, that her husband lost the land whereof the Dower is demanded by judgment, whereby she ought not to have Dower, and then it be enquired, by what judgment, and it be found it was by default; whereupon the Tenant must answer, then it behoveth the Tenant to answer further, and to shew that he had right, and hath in the aforesaid lands, according to the form of the writ that the Tenant before purchased against the husband. And if he can shew that the husband of such wife had no right in the lands, nor any other but he that holdeth them, the Tenant shall go quit, and the wife shall recover nothing of her Dower; which thing if he cannot shew, the wife shall recover her Dower. *a*

Judgment by default against the husband, shall not bar his widow of her dower.

VII. AND where sometime it chanceth that a woman not having a right to demand Dower, the heir being within age, doth purchase a writ of Dower against a guardian, and the guardian endoweth the woman by favor, or maketh default, or by collusion defendeth the plea so faintly, whereby the woman is awarded her Dower in prejudice of the heir, it is provided that the heir when he cometh to full age, shall have an action to demand the seizin of his ancestor against such a woman, like as he should have against any other deforcer; yet so that the woman shall have her exception saved against the demandant, to shew that she had right to her Dower; which if she can shew, she shall go quit, and retain her Dower; and if not, the heir shall recover his demand. *a*

Remedy where the widow is endowed to the prejudice of the heir within age.

VIII. IN like manner the woman shall be aided, if the heir or any other do implead her for her Dower, if she lose her Dower by default, in which case, the default shall not be so prejudicial to her, but that she shall recover her Dower, if she have right thereto; and she shall have this writ: *a*

Judgment by default against a widow impleaded for her dower shall not bar her right.

COMMAND A. *that justly, &c. he render to B. who was the wife of F. so much land, with the appurtenances in C. which she claims to be her reasonable Dower; (or of her reasonable Dower) and that the aforesaid A. deforceth her, &c.*

And to this writ the Tenant shall have his exception, to shew that she had no right to be endowed, which if he can verify, he shall go quit, if not, the woman shall recover the land whereof she was endowed before. *a*

IX. ALSO widows may bequeath the crop of their ground, as well of their Dowers, as of other their lands and tenements. *a*

Widows may bequeath the crops of their dower lands.

X. BUT if a wife willingly leave her husband, and go away and continue with her adulterer, she shall be barred forever of action to demand her Dower, that she ought to have of her husband's lands, if she be convict thereupon, except that her husband willingly and without coercion, reconcile her, and suffer her to dwell with him; in which case she shall be restored to her action. *a*

How a wife may forfeit her right of dower.

XI. ALSO, if any estate be conveyed by deed or will, either expressly or by averment, for the jointure of the wife, in lieu of her Dower, to take effect in her own possession, immediately on the death of her husband, and to continue during her life at the least, determinable by such Acts only as would forfeit her Dower at the common Law, such conveyance shall bar her Dower of the residue of the lands, tenements, or hereditaments, which at any time were her said husband's. But if the said conveyance were before the marriage, and during the infancy of the *feme*, or if it were made after marriage, in either case, the widow may, at her election, wave such jointure, and demand her Dower. *a*

Where a jointure shall bar a widow of her dower.

XII. WHEN any conveyance intended to be in lieu of Dower, shall through any defect, fail to be a legal bar thereto, and the widow availing herself of such defect, shall demand her Dower, the estate and interest conveyed to such widow, with intention to bar her Dower, shall thereupon cease and determine. *a*

Widows not to have both their dower & the lands intended to be in lieu thereof.

XIII. IF a widow be lawfully expelled or evicted from her jointure, or any part thereof, without any fraud or covin, by lawful entry or action, she shall be endowed of as much of the residue of her husband's lands, tenements, or hereditaments, whereof she was before dowable, as the same lands, tenements, or hereditaments, so evicted and expelled, shall amount and extend unto. *a*

How they shall be recompensed when evicted of their jointures, or any part thereof.

XIV. ALL and every other Act and Acts, clause and clauses heretofore made, for or concerning any matter or thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided*, nothing in this Act contained, shall be construed to affect any right which may have accrued, or been vested, prior to the commencement of this Act.

Repealing clause.

Proviso.

XV. THIS Act shall commence in force, from the passing thereof.

Commencement of this act.

(a) 1785, ch. 65, sec. 3, 4, 5, 6, 7, 8.

CHAP. XCV.

An Act to reduce into one, the several Acts concerning Guardians, Orphans, Committees, Infants, Masters and Apprentices.†

[Passed the 11th of December, 1792.]

Fathers may by deed or will dispose of the custody and tuition of their infant children.

Such guardians to have the same powers as guardians in common socage.

High court of chancery and county courts empowered to controul guardians and determine disputes between them and their wards.

To require security of them,
And to displace them & appoint others when necessary.

Courts shall take security of guardians appointed by them.

If a guardian fails or refuses to give security, the court may appoint a curator.

Guardians appointed by the court to deliver inventories of their wards estates.

Their accounts to be exhibited to the court once in every year, or oftener if required:
To be examined and if approved to be recorded.

Exceptions thereto how to be made.

The court may compel a guardian to give sup-

I. **BE** it enacted by the General Assembly, That any father, even if he be not twenty-one years old, may by deed or last will and testament, either of them being executed in presence of two credible witnesses, grant or devise the custody and tuition of his child (which had never been married) although it be not born, during any part of the infancy of such child, to whomsoever he will; and such grant or devise heretofore, or hereafter to be made, shall give the grantee or devisee the same power over the person of the child, as a Guardian in common socage hath, and authorise him by action of ravishment of ward or trespass, to recover the child, with damages for the wrongful taking or detaining him or her for his or her use; and for the same use to undertake the care and management, and receive the profits of the Ward's estate, real and personal, and prosecute and maintain any such action and suits concerning the same, as a Guardian in common socage may do. *a*

II. THE High Court of Chancery, generally, and the Court of every County and Corporation in Chancery, within the limits of their jurisdiction, shall have power from time to time to controul Guardians, and hear and determine all matters between them and their Wards; to require security of any Guardian in socage, or statutory Guardian, when that caution shall seem necessary for prevention of any damage his Ward may suffer by neglect, mismanagement, or malversation; and if the security be refused or delayed, or if such Guardian appear to have been guilty of a flagrant abuse of trust, to displace him and appoint another in his stead, and to give such directions, and make such rules and orders as they shall think fit, for the government, maintenance, and education of Wards, and preservation of their estates, and for the conduct of Guardians. *a*

III. EVERY Court appointing a Guardian, shall take bond of him, with sufficient security for the faithful execution of his Office; and if any Court omit this duty, or take such security as shall not satisfy them of his sufficiency, which may be done as well by the sureties affidavit, as otherwise, the Ward, by an action on the case against the Judges or Justices so making default, may recover so much of the damages which the Guardian and security shall be answerable for, as these shall be unable to pay. *a*

IV. IF any Guardian refuse, or be unable to give the security required of him, the Court may put the estate into the hands of a Curator, the fittest they can prevail upon to undertake the care of it, to be accountable to them, and in that case shall not be liable for his ability. *a*

V. EVERY Guardian or Curator to be appointed by any Court, shall, at the term or session next afterwards, deliver into such Court, an inventory upon oath of all the estate which he shall have received, to be entered of record in a separate book; and such Guardian or Curator, and every Guardian heretofore appointed, shall exhibit to such Court once in every year, which if it be a County or Corporation Court, shall be in *September*, or at the next session, if there be none in that month, or oftener, if he shall be specially required, accounts of the produce of the estate, of the sales and disposition of such produce, and of the disbursements; which accounts shall be examined by the Court, or by such persons as the Court shall refer them to; and being found and certified or reported to be properly and fairly stated, and the articles thereof to be justified by the vouchers, and the report in case of a reference being approved and confirmed by the Court, shall with such certificate or confirmation, be entered of record in the book aforesaid; and if any article of such accounts at any time afterwards be excepted to by the Ward, or his representative, it shall be incumbent on him to prove or shew the falsity or injustice thereof, unless notice on his behalf shall have been given at the time of passing the accounts, that such article would be excepted to, and a memorandum of that notice shall have been entered on record, or desired to be entered. *a*

VI. THE Court at any time when they shall know or have cause to suspect that the surety of a Guardian is failing, may require and compel such Guar-

dian to give supplemental security, or if he refuse or neglect to do so, may displace him. *a*

VII. A GUARDIAN who shall not deliver in such inventory, and render such accounts as aforesaid, shall, by order of the Court to which he is amenable, be summoned, and if he remain in default, be compelled to perform his duty, or be displaced; for which purpose the summons or other process from a County or Corporation Court may be directed to, and shall be executed by the Sheriff of any other County wherein the Guardian may be found; and every Judge or Justice of the Court sitting therein, at any time during the term or session in which the process ought to have been ordered, if it be not ordered accordingly, shall be amerced. *a*

Proceedings against guardians failing to deliver in inventories and accounts.

Penalty on the Justices for neglect.

VIII. IF the disbursements of the Guardian being suitable to the estate and circumstances of the Ward, shall exceed the profits of his estate in any year, the balance, with the allowance of the Court, may be debited in the account of the succeeding year, and the balance appearing on the contrary side may be put out to interest, for the benefit of the Ward, upon such security as the Court shall approve, or the Guardian, if it remain in his hands, shall account for the interest; to be computed from the time his accounts were or ought to have been passed. *a*

Balance due to the guardian for disbursements to be debited in the account of the ensuing year.

Balance due to the ward, how to be disposed of.

IX. IF any surety for a Guardian by petition to the Court before whom they were bound, setting forth that he apprehends himself to be in danger of suffering thereby, shall pray that he may be relieved, the Court, after a summons to answer the petition, shall have been served upon the Guardian, or a copy of such summons shall have been left at the place of his usual abode, shall order him to give counter security, or to deliver the Ward's estate into the hands of the surety, or some other person, and in that case taking sufficient security; or may make such other order for the relief of the petitioner, as to them shall seem just. *a*

Securities for guardians in danger of suffering, how to be relieved.

X. THE estate of a Guardian not under a specific lien, shall, after the death of the Guardian, be liable for whatsoever may be due from the Guardian on account of his Guardianship, to his Ward, before any other debt due from such Guardian. *a*

When a guardian dies, the debt due to his ward to be first paid.

XI. EVERY orphan who hath no estate, or not sufficient for a maintenance out of the profits, shall, by order of the Court of the County or Corporation in which he or she resides, be bound Apprentice by the Overseers of the Poor, until the age of twenty-one years, if a boy, or of eighteen years, if a girl, to some master or mistress, who shall covenant to teach the Apprentice some art, trade, or business, to be particularized in the indenture, as also reading and writing; and if a boy, common arithmetic, including the rule of three, and to pay him or her twelve dollars at the expiration of the time; and the indentures of such Apprentices shall be filed in the Office of the Clerk of the County, and not transferable to any person whatsoever, without the approbation of the Court. *a*

Poor orphans to be bound apprentices by the overseers of the poor.

XII. ANY Guardian may with the approbation of that Court in which his appointment shall be recorded, and not otherwise, bind his Ward Apprentice to such person for learning such art or trade, and with such covenants on the part of the master or mistress, as the said Court shall direct; and every such Apprentice with the like approbation, or any Apprentice bound by his father, may, with the approbation of the Court of that County in which the father shall reside, after he shall be sixteen years of age, agree to serve until he shall be twenty-four years of age, or any shorter time, and such agreement entered on record shall bind him. *a*

Guardians may bind out their wards as apprentices, with the approbation of the court.

Apprentices over sixteen years of age, may bind themselves to serve until they are twenty-four.

XIII. WHERE any person under the age of twenty-one years is, or shall be seized or possessed, of any lands, tenements, or hereditaments, in trust, or by way of mortgage, the Guardian of such infant, upon petition of one or more of the parties interested to the High Court of Chancery, by order of such Court, made after hearing the parties, may execute any such deed, or perform any other such act, as the trustee or mortgagee, if he were of full age, might have executed or performed; and such deed or other act shall be as valid, except that he shall not be bound by a warranty or other covenant contained in the deed. *b*

Where infants are seized of lands, &c. in trust, deeds executed by their guardians by order of the court of chancery, shall be as valid as if executed by the trustees when of full age.

XIV. ALSO the said Court may in like manner empower such Guardian to make or take a surrender of a former lease, and to take or make a new lease, as the case may require, and as it shall seem most to the advantage of the infant, out of whose estate any fine that may be advanced, and all other just expenses that may be incurred in order to obtain a new lease to him, shall be reimbursed.

Guardians may make or take surrenders of leases, or make new leases under the direction of the court of chancery.

County and corporation courts to hear the complaint of apprentices against their masters.

And of masters against their apprentices.

Infants may sue by their next friends.

Corporation courts to have the same powers under this act as the county courts.

Repealing clause.

Commencement of this act.

ed; and the new lease shall not only be chargeable with such fine and expenses, but shall remain subject to all incumbrances which the lease surrendered would have been subject to.

XV. THE Court of every County, City, or Borough, shall at all times receive the complaints of Apprentices, being Citizens of any one of the United States of *America*, who reside within the jurisdiction of such Court, against their masters or mistresses, alledging undeserved or immoderate correction, insufficient allowance of food, raiment, or lodging, or want of instruction, and may hear and determine such cases in a summary way, making such orders thereupon as in their judgment will relieve the party injured in future, or removing the Apprentices, and binding them to other masters or mistresses, when it shall seem necessary; and may also, in the same manner, hear and determine complaints of masters or mistresses against their Apprentices, for desertion without good cause. *a*

XVI. IN every case where such as be within age may sue, their next friends shall be admitted to sue for them. *b*

XVII. AND be it further enacted, That the Courts of Hustings in the Cities of *Williamsburg* and *Richmond*, and Borough of *Norfolk*, and all other incorporated towns, shall have the same power as is hereby given to the County Courts.

XVIII. ALL and every Act and Acts, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed.

XIX. THIS Act shall commence in force, from and after the passing thereof.

CHAP. XCVI.

An Act to reduce into one, the several Acts to prevent unlawful Gaming.†

[Passed the 8th of December, 1792.]

All promises, agreements, securities and conveyances for gaming debts, void.

I. BE it enacted by the General Assembly, That all promises, agreements, notes, bills, bonds, or other contracts, judgments, mortgages, or other securities or conveyances whatsoever, made, given, granted, drawn, or entered into, or executed by any person or persons whatsoever, before or after passing this Act, where the whole or any part of the consideration of such promise, agreement, conveyances, or securities, shall be for money or other valuable thing whatsoever, won, laid, or betted at cards, dice, tables, tennis, bowles, or any other game or games whatsoever, or at any horse-race, cock-fighting, or any other sport or pastime, or on any wager whatsoever, or for the reimbursing or repaying any money knowingly lent or advanced at the time and place of such play, horse racing, cock-fighting, or other sport or pastime, to any person or persons so gaming, betting, or wagering, or that shall at such time and place, so play, bet or wager, shall be utterly void, frustrate, and of none effect, to all intents and purposes whatsoever; any Law, custom, or usage, to the contrary thereof, in any wise, notwithstanding. *c*

Real estate under any incumbrance for gaming debts, shall devolve to the next heirs.

II. ANY conveyance or lease of lands, tenements, or hereditaments, sold, demised, or mortgaged, and any sale, mortgage, or other transfer of slaves or other personal estate, to any person, or for his use, to satisfy or secure money, or other thing by him won of, or lent or advanced to, the seller, lessor, or mortgagor, or whereof money or other thing so won, or lent, or advanced, shall be part or all of the consideration money, shall inure to the use of the heirs of such mortgagor, lessor, bargainor, or vendor, and shall vest the whole estate and interest of such person in the lands, tenements, or hereditaments, so leased, mortgaged, bargained, or sold, and in the slaves, or other personal estate so sold, mortgaged, or otherwise transferred, to all intents and purposes, in the heirs of such lessor, bargainor, mortgagor, or vendor, as if such lessor, bargainor, mortgagor, or vendor had died intestate. *d*

When and how any person losing money at gaming may recover it from the winner.

III. IF any person or persons whatsoever, at any time hereafter within the space of twenty-four hours, by playing at any game or games whatsoever, or by betting on the sides or hands of such as do play at any game or games, shall lose to any one or more person or persons so playing or betting, the sum or value of seven dollars or more in the whole, and shall pay or deliver the same or any part thereof, the person or persons so losing and paying, or delivering the same, shall be at liberty within three months then next following, to sue for and recover the money or goods so lost and paid or delivered, or any part thereof, from the respective winner or winners thereof, with costs of suit, by action of

(a) 1785, ch. 86, sec. 2, 3. (b) 1786, ch. 66. † Amended 1797, pa. 4.
(c) 22 Geo. 2, ch. 25, sec. 1. (d) O.S. '79, ch. 12, sec. 1.

debt founded on this Act, to be prosecuted in any Court of Record within this Commonwealth, where the sum or value thereof shall be cognizable; in which action it shall be sufficient for the Plaintiff to alledge that the Defendant is indebted to the Plaintiff, or received to the Plaintiff's use, the money so lost and paid, or converted the goods won of the Plaintiff to the Defendant's use, whereby the Plaintiff's action accrued to him according to the form of this Act, without setting forth the special matter; and in case the party losing such money or other thing, as aforesaid, shall not within the time aforesaid, really and *bona fide*, without covin or collusion, sue, and with effect prosecute for the money or other thing so lost and paid or delivered, it shall and may be lawful to and for any other person or persons, by any such action or suit, as aforesaid, to sue for and recover the same, and treble the value thereof, with costs of suit, against such winner or winners, as aforesaid, the one moiety thereof to the use of the person or persons suing for the same, and the other moiety to the use of the parish where such offence shall be committed; and every person who by virtue of this present Act, shall or may be liable to be sued for monies or other things so won, as aforesaid, shall be obliged and compellable to answer upon oath, such bill or bills as shall be preferred against him or them, for discovering the money or other things so won at play, as aforesaid. *a*

IV. *PROVIDED* always, That upon discovery and repayment of the money, or other thing so to be discovered and repaid, as aforesaid, the person and persons discovering and repaying the same, shall be acquitted, indemnified, and discharged from any further or other forfeiture, punishment, or penalty which he or they may have incurred by the playing for and winning such money or other thing so discovered and repaid. *a*

V. AND to prevent gaming at Ordinaries and other public places, which must be often attended with quarrels, disputes, and controversies, the impoverishment of many people and their families, and the ruin of the health, and corruption of the manners of youth, who upon such occasions frequently fall in company with lewd, idle and dissolute persons, who have no other way of maintaining themselves but by gaming: *Be it further enacted*, That if any person or persons shall at any time play in an ordinary, race-field, or any other public place, at any game or games whatsoever, except billiards, bowles, backgammon, cheis, or draughts, or shall bet on the sides or hands of such as do game, every such person upon conviction thereof, before any Justice of Peace in any County within this Commonwealth, by the oath of one or more credible witnesses or witnesses, (which oath the said Justice is hereby empowered to administer) or by the view of such Justice, or the confession of the party accused, shall forfeit and pay twenty dollars, to be levied by distress and sale of the offender's goods, by warrant under the hand of the Justice before whom such conviction shall be, and for the use of the poor of the parish wherein such offence shall be committed; and moreover, every person so convicted, shall be committed to the County Jail, there to remain until he, she, or they, give sufficient security for his, her or their good behaviour for twelve months next after such conviction. *a*

VI. IF any person by playing or betting at any game or wager whatsoever, at any time within the space of twenty-four hours, shall lose or win to or from another, a greater sum, or any thing of greater value than twenty dollars, the loser and winner shall be liable to pay one half of the entire sum above the said sum of twenty dollars which he shall so win or lose; and upon information thereof made to any County Court, and due proof thereof had, such County Court shall levy upon the goods and chattels of the offenders, the full penalty incurred, to be applied to lessening the levy of the County wherein such offence shall be committed. *b*

VII. AND whereas divers lewd and dissolute persons live at great expenses, having no visible estate, profession, or calling to support them, but by gaming only: *Be it therefore enacted*, That it shall be lawful for any two Justices of Peace in any County or Corporation, to cause to come or be brought before them, every person within their respective limits, whom they shall have just cause to suspect to have no visible estate, profession, or calling to maintain himself by, but for the most part supporting himself by gaming; and if such person shall not make it appear to such Justices, that the principal part of his expenses is not maintained by gaming, they shall require of him sufficient securities for his good behaviour for the space of twelve months, and on refusal there-

If he does not sue within three months any other person may, and recover the money paid, and treble the value.

The defendants compellable to answer on oath, bills in equity for discovering what was won.

But discharged by repayment thereof, from the penalty.

Penalties for playing at public houses.

For losing or winning more than twenty dollars in twenty-four hours.

Gamesters having no visible means of supporting themselves, may be bound to good behaviour or committed.

of, shall commit him to the common Jail, there to remain until he shall find such securities; and if such person shall give such securities, and afterwards within that time shall play or bet for any money or other valuable thing whatsoever, such playing or betting shall be a breach of the behaviour, and a forfeiture of the recognizance given for the same. *a*

Penalty on persons assaulting or challenging others on account of money, &c. won by gaming.

VIII. AND to prevent quarrels happening by gaming, *It is hereby further enacted*, That if any person or persons shall assault and beat, or shall challenge or provoke to fight, any person or persons whatsoever, upon account of any money or other thing won by gaming or betting, the person and persons so assaulting, beating, challenging, or provoking to fight, being thereof convicted, shall forfeit to the party grieved thirty dollars, to be recovered with costs, by action of debt, in any County Court; and moreover shall be liable to the action of the party grieved, at the common Law. *a*

Punishment of cheats.

IX. AND *be it further enacted*, That if any person or persons whatsoever, do, or shall at any time or times by any fraud, shift, cozenage, circumvention, deceit, unlawful device, or evil practice whatsoever, in playing at, or with cards, dice, or any other game or games, or in, or by bearing a share or part in the stakes, wagers, or adventures, or in, or by betting on the sides or hands of such as do or shall play, win, obtain, or acquire to him or themselves, or to any other or others, any sum or sums of money, or other valuable thing or things whatsoever, every person so winning by such ill practice, and being thereof convicted upon indictment, or information, shall forfeit five times the value of the money or other thing so won, and shall be deemed infamous, and suffer such corporal punishment as in cases of wilful perjury; and such penalty shall be recoverable with costs by any person or persons suing for the same, by action of debt in any Court of Record in this Commonwealth, having cognizance thereof. *a*

Liberty of appeal from the judgment of the Justice to the county court.

X. PROVIDED *always*, That any person aggrieved by the judgment of any Justice of Peace upon any conviction for any of the offences in this Act cognizable before him, may appeal to the next Court to be held for the County where such person shall be convicted, but shall give reasonable notice of such appeal to the party prosecuting him or her, and shall also enter into recognizances with two sufficient securities, before some Justice of the County wherein the judgment was given, on condition to try such appeal at the next Court held for the same County after the entering such appeal, which shall be by the said Court then heard and finally determined: *Provided also*, that no such judgment shall be set aside for want of form, wherein it shall appear to the Court, that the facts were sufficiently proved at the trial, nor shall any judgment be removed or removable by appeal, or any writ or process whatsoever, into the District Court. *a*

Keepers of A B C, or E O tables, or Farro banks, or other like tables or banks to be deemed vagrants. And their tables to be destroyed.

XI. ALL and every keeper or keepers, exhibitor or exhibitors, of either of the gaming tables, commonly called A. B. C. or E. O. tables, or of a Farro-bank, or of any other gaming table or bank of the same, or the like kind, under any denomination whatever, shall be deemed and treated as vagrants; and moreover, it shall and may be lawful for any Justice of the Peace, or Magistrate of any Corporation Court, by warrant under his hand, to order any such gaming table to be seized and publicly burnt or destroyed. *b*

Private lotteries prohibited.

XII. NO person in order to raise money for himself or another, shall publicly or privately put up a lottery of blanks and prizes, to be drawn or adventured for, or any prize or thing to be raffled or played for; and whoever shall offend herein, shall forfeit the whole sum of money proposed to be raised by such lottery, raffling, or playing, to the use of the Commonwealth. *c*

This act to be given in charge to grand juries.

XIII. THE presiding Justice as well in the District as in all the Inferior Courts of Law in this Commonwealth, shall constantly give this Act in charge to the Grand Juries of their Courts, at the times when such Grand Juries shall be sworn. *c*

Repealing clause.

XIV. EVERY Act, or clause in any Act concerning any matter within the purview of this Act, shall be, and is hereby repealed. *Provided always*, That nothing in this Act contained shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

Proviso.

Commencement of this act.

XV. THIS Act shall commence and be in force, from and after the passing thereof.

(a) 22, Geo. 2, ch. 25, sec. 9, 10, 8, 7. (b) 1787, ch. 48, sec. 18. (c) From 1779, ch. 42, sec. 5.

CHAP. XCVII.

An Act against Champerty.

[Passed the 8th of December, 1792.]

1. **B**E it enacted and declared, by the General Assembly, That Champertors be they that move pleas and suits, and cause them to be moved, by their own procurement or by others, and sue them at their own proper costs and charges, to have a part of the land in variance, or part of the gains; and those who are convicted thereof by the verdict of a jury, shall be punished, by imprisonment and amercement, at the discretion of the jury before whom they shall have been found guilty, and such amercement and imprisonment shall be ascertained at the time of such conviction. *a*

Who are champertors.

How they shall be punished.

II. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this Act.

CHAP. XCVIII.

An Act against Hog-Stealing.

[Passed the 3th of December, 1792.]

I. **B**E it enacted by the General Assembly, That if any person not being a slave, shall steal any hog, shoat, or pig, he, or she, shall, for the first offence, receive on his or her bare back, twenty-five lashes, well laid on, at the public whipping-post of the County where he or she shall be convicted, or pay thirty dollars, to the use of the same County, towards lessening that County levy, and shall moreover pay eight dollars for every such hog, shoat, or pig, one half to the owner thereof, and the other half to the informer, to be recovered with costs at the suit of the informer, by action of debt in any County Court within this Commonwealth; and in all suits to be brought, or informations filed, against any person not being a slave, for hog-stealing, it shall be lawful for the Court to rule the Defendant to give special bail, and to commit him or her to prison, until he or she shall give such bail. *b*

Punishment of hog-stealers not being slaves for the first offence.

When sued for the penalty, the defendant may be ruled to give special bail.

II. AND if any person other than a slave, shall offend a second time, and be thereof convicted, he, or she, shall stand two hours in the pillory, on a Court day, at the Court-house of the County where such conviction shall be, and have both ears nailed thereto, and at the end of two hours have the ears cut loose from the nails, which judgment the respective County Courts of this Commonwealth, are hereby empowered to give, and to award execution thereupon: Saving always to the party concerned, liberty of appeal to the District Court within whose jurisdiction such County shall be; such party giving bond with good security, in the sum of one hundred dollars, for his or her personal appearance in the said Court, according to the appeal, and to perform and abide their award; and moreover, every such offender shall pay and satisfy eight dollars for every stolen hog, shoat, or pig, to the owner or informer, to be recovered as aforesaid. And if there be several offenders in one and the same fact, although but one hog, shoat, or pig be stolen, each person may be particularly prosecuted, and upon conviction, shall be adjudged to suffer the punishment, and pay the whole fine as aforesaid. *c*

Punishment for the second offence.

Where there are several offenders in one fact, each of them liable to punishment.

III. If any servant shall be convicted of hog-stealing, his or her master or owner, shall pay and satisfy eight dollars, to be recovered and divided as aforesaid, whether it be for the first or second offence, and shall be repaid for the same, and costs of suit, by further service of such offender, after his or her time, due by indenture, contract, or former judgment shall be expired, at the rate of three dollars for one month's service, and judgment shall be entered up accordingly.

If servants be convicted, the penalty to be paid by the master, & repaid by the servant.

IV. WHEN any slave or slaves shall hereafter steal any hog, shoat, or pig, it shall be lawful for any Justice of Peace of the County where such offence shall be committed, upon complaint or information thereof to him made, to cause such offender or offenders, and the witness or witnesses, to come before him; and if upon examination, any slave or slaves appear to be guilty, to commit him, her, or them, to prison, or bind every such offender with security, to appear personally before the Court next thereafter to be held for his County, to answer such complaint or information, and to abide the judgment of the

How slaves shall be prosecuted and punished for hog-stealing.

(a) 33 Edw'd 1, stat. 2 and 3. (b) 1748, ch. 33. 1769, ch. 30, sec. 2.
(c) 1748, ch. 33.

For the first offence,

For the second offence,

Punishment of false witnesses.

Third offence felony.

Bringing home, or carrying on board any vessel, hogs without ears, hog-stealing, unless the party proves his property.

Indians' hogs to have the mark of their town.

Repealing clause.

Priviso.

Commencement of this Act.

said Court; and the Justices thereof are hereby required to direct the person appointed to prosecute for the Commonwealth in the same Court, to exhibit a charge or complaint in writing against such slave or slaves for such offence, whereupon it shall be lawful for the said Court to hear and determine the matter of such charge or complaint without any Jury, and to receive as evidence against the slave or slaves so charged, the confession of the offender, the oath of one or more credible witnesses, or such testimony of Negroes, Mulattoes, or *Indians*, bond or free, as to them shall seem convincing; and if, in the opinion of such Court, the slave or slaves so charged, is, or are guilty, every such offender for the first offence, shall receive thirty-nine lashes on his or her bare back, well laid on, at the public whipping-post; and upon a second conviction, shall stand two hours in the pillory, with both ears nailed thereto, and then cut loose, as is herein before directed. And if any Negro, Mulatto, or *Indian*, shall, upon due proof made, or pregnant circumstances appearing to any County Court, be found to have given false testimony, on the trial of any slave for the first or second offence of hog-stealing, every such offender, without further trial, shall be by such Court ordered to receive the same corporal punishment as the slave tried for hog-stealing would receive upon conviction. And the first Justice in commission, sitting at such trial, shall, before the examination of such Negro, Mulatto, or *Indian*, charge such evidence to speak the truth, and shall also inform him or her of the consequence of giving false testimony.

V. IF any person whatsoever, shall be the third time convicted of hog-stealing, every such offender shall be adjudged a felon. *a*

VI. IF any person shall bring, or cause to be brought to his or her own house, or any other house, or on board of any ship, sloop, or other vessel, any hog, shoat, or pig, without ears, or shall receive any such, and not immediately discover the same to a Justice of the Peace, he or she so offending, shall be adjudged a hog-stealer: *Provided nevertheless*, that any person may bring, or cause to be brought to his or her own, or any other house, or on board any ship, sloop, or other vessel, his or her own swine, though without ears, he or she proving the same to be his or her property. *a*

VII. ALL tributary *Indians* keeping swine, shall give them the same mark, which hath been, or by the next adjacent County Court shall be allowed to the town to which such *Indians* respectively belong; and if any person not being an *Indian*, shall buy or receive from any *Indian* any pork, and cannot prove such pork to be of the proper mark of the town of *Indians*, to which the *Indian* of whom the same was bought or received, shall belong, he or she so offending, shall forfeit and pay twenty-five dollars, one half to the Commonwealth, and the other half to the informer; to be recovered with costs, by action of debt, in any Court of Record within this Commonwealth. *a*

VIII. ALL and every Act, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, That nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence, committed or done before the commencement of this Act.

IX. THIS Act shall commence in force, from and after the passing thereof.

CHAP. XCIX.

An Act to prevent Malicious Shooting, Stabbing, Maiming, and Disfiguring.

[Passed the 17th of December, 1792.]

Punishment for maiming or disfiguring another.

I. **B**E it enacted by the General Assembly, That if any person or persons shall unlawfully cut out or disable the tongue, put out an eye, slit a nose, bite, or cut off a nose, or lip, or cut off or disable any limb or member of any person whatsoever, within the Commonwealth; in so doing to maim or disfigure, in any of the manners before mentioned, such person, the person or persons so offending, their counsellors, aiders, and abettors, knowing of, and privy to the offence, shall be, and are hereby declared to be felons, and shall suffer as in case of felony. *b*

For shooting or stabbing another.

II. IF any person shall shoot, or stab any person within the Commonwealth, with an intent to maim, disfigure, or kill, the person or persons so offending,

(a) 1743, ch. 33. (b) 25 Geo. 2, ch. 6. 1788, ch. 28.

their counsellors, aiders, and abettors, knowing of, and privy to the offence, shall be, and are hereby declared to be felons, and shall suffer as in case of felony.

III. ALL other Acts, within the purview of this Act, shall be, and are hereby repealed. *Provided always*, That nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

Repealing clause.
Proviso.

IV. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this Act

CHAP. C.

An Act declaring the Punishment of the Crime of Buggery.

[Passed the 10th of December, 1792.]

I. **B**E it enacted and declared, by the General Assembly, That if any do commit the detestable and abominable vice of Buggery, with man or beast, he or she so offending, shall be adjudged a felon, and shall suffer death, as in case of felony, without the benefit of Clergy. *a*

Punishment for buggery.

II. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this Act.

CHAP. CI.

An Act declaring the Punishment of Horse-Stealers, and their Accessories, and reducing into one, the several Acts to encourage the Apprehenders of Horse-Stealers.

[Passed the 10th of December, 1792.]

I. **B**E it enacted and declared, by the General Assembly, That if any person do feloniously take, or steal, any Horse, Mare, or Gelding, Foal, or Filly, the person so offending, shall not be admitted to have or enjoy the benefit of Clergy, but shall be utterly excluded thereof, and shall suffer death as in case of felony. *b*

Punishment of horse-stealers.

II. AND for as much as felons are much encouraged to steal Horses, because a great number of persons make a trade to receive and buy of such felons, the Horses by them feloniously taken, and also do make it their business to conceal such Offenders after the said fact, knowing such felonies to be by them committed: *Be it therefore enacted*, That if any person or persons shall receive or buy any Horse, that shall be feloniously taken or stolen from any other person, knowing the same to be stolen, or shall harbour or conceal any Horse-Stealer, knowing him, her, or them to be so, such person or persons shall be taken and received as accessory or accessories to the said felony; and being of either of the said offences legally convicted, by the testimony of one or more credible witness or witnesses, shall incur and suffer the pain of death as a felon convict. *c*

Of their accessories.

III. *PROVIDED always*, That if any such principal felon cannot be taken, so as to be prosecuted and convicted of any such offence, yet, nevertheless, it shall and may be lawful to prosecute and punish every such person and persons, buying or receiving any Horses stolen by any such principal felon, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, or other such corporal punishment as the Court shall think fit to inflict, although the principal felon be not before convict of the said felony; which shall exempt the Offender from being punished as accessory, if such principal felon shall be afterwards taken and convicted. *c*

How the accessories may be punished if the principals be not convicted.

IV. WHOSOEVER shall apprehend one charged with Horse-Stealing, if the prisoner be convicted of that crime, shall be entitled to a reward of twenty dollars† from the Treasury, upon a certificate from any of the District Courts of this State, that the claimant was the apprehender, and either that he was not examined as a witness at the trial, or that the other evidence then given was sufficient, without his testimony, to convict the prisoner. *d*

Reward for apprehending a horse-stealer

V. THE legal representative of any person killed in endeavouring to apprehend any Horse-stealer, shall receive the sum of one hundred and seventy dol-

Reward of executors, &c. of persons killed

(a) Stat. 25, H. 8, ch. 6. (b) Stat. 37, H. 8, ch. 8, 23 3. Ed. 6, ch. 33.
(c) 1748, ch. 34, sec. 14, 15. † Encreased from £. 5 (d) From 22 G. 2, ch. 34, sec. 11. 1786, ch. 47. 1789, ch. 1.

In pursuit of, or in taking a horse-stealer.

Repealing clause.
Proviso.

Commencement of this Act.

lars, to be paid by the Treasurer, upon the order of the Auditor, which he is hereby directed to issue, upon a certificate delivered under the hands and seals of two Justices of the Peace of the County where the fact was committed, that such person was so killed; which certificate the said Justices, upon sufficient proof before them made, are required immediately to give. *a*

VI. ALL and every Act or Acts, Statute or Statutes, clause or clauses of Acts, coming within the purview of this Act, (except as herein after provided) shall be, and the same are hereby repealed. *Provided nevertheless*, that nothing herein contained, shall be construed to repeal any such Statute or Acts, for so much of any of them, as may relate to any offence, within the purview thereof, committed or done before the commencement of this Act.

VII. THIS Act shall commence in force, from and after the passing thereof.

CHAP. CII.

An Act providing for the Poor, and declaring who shall be deemed Vagrants.

[Passed the 26th of December, 1792.]

Overseers of the poor, how and by whom to be elected.

To continue in office three years.

The county court to appoint a person to superintend the election.

Return to be made of the persons elected.

Overseers of the poor to be informed of their appointment.
How qualified.

Penalty for refusing to serve without a reasonable excuse.

Proviso.

When they shall be appointed by the county courts.

I. **B**E it enacted by the General Assembly, That the Court of every County within this Commonwealth, after the expiration of the period during which the present Overseers of the Poor for the respective Counties are to continue in office, under the last general election, or before that period, as hereinafter directed, shall cause their said County to be laid off into convenient Districts, not exceeding four in each County, and shall direct the Sheriff or the County to cause publication to be made, that on some day to be appointed by the said Court, an election will be held within each District, to consist of freeholders and house-keepers only, for the purpose of choosing three discreet and fit persons, being freeholders of, and resident within the same, who shall be called and denominated Overseers of the Poor, and shall continue and be in office for and during the term of three years; at the expiration whereof, other triennial elections shall be made in the same manner, but the general elections shall in all cases be computed from the first day of April, in the year in which they shall be made, notwithstanding the time of service shall thereby be made shorter than this Act directs. The County Court may at any session within six months before the first day of April, which will be in the year in which the general election of Overseers is to be held, enter into the measures directed by this Act for regulating the same, and may fix on some convenient day for holding the said elections. *b*

II. AND the said Courts respectively, shall appoint some person in each District, to superintend the election; and if any person so appointed, shall refuse, or neglect to serve, without reasonable excuse, he shall forfeit and pay for every such refusal or neglect, the sum of thirty dollars, to be recovered for the use of the poor of the County, in any Court of Record, by action of debt or information founded on this Act, together with costs. And the person who shall be appointed to superintend any election, shall return the names of the person or persons chosen, to the Clerk of the County, who shall thereupon issue a writ to the Sheriff of the County, commanding him that ten days before the ensuing Court day, he shall inform the said person or persons, that he or they hath or have been elected Overseer or Overseers of the Poor, and require him or them to appear at the next Court day, and make oath that he or they will truly and faithfully administer the said office. And any person being duly elected, who shall refuse, or neglect to serve as an Overseer of the Poor in the County of which he is an inhabitant, unless disqualified by age or other infirmity, such disqualification to be judged of by the County Court, shall forfeit and pay thirty dollars; to be recovered with costs, by action of debt or information, in any Court of Record within this Commonwealth: *Provided*, That no person shall be compelled to serve more than three years, nor be subject to the penalty for refusing more than once in every term of nine years. *c*

III. WHENEVER it shall so happen that the person appointed to superintend the election of Overseers of the Poor in any District, shall fail to attend agreeable to his appointment, or in case there be no election, on account of the non-attendance of the electors, or in case of the death, refusal, or disability of

(a) 22 Geo. 2, ch. 34, sec. 11. (b) 1787, ch. 48. 1786, ch. 17. (c) 1785, ch. 4. 1783, ch. 53, Amended in 1797, ch. 9, pa. 8. 1787, ch. 48, sec. 11.

any Overseer or Overseers of the Poor, the County Court shall, and they are hereby required, at their next Court, to fill any vacancy that may so happen, by appointing persons to serve for the same time such person or persons should otherwise remain in office. *a*

IV. THE Overseers of the poor in every County, although in different Districts, shall meet annually at some convenient place, to be appointed by a majority of them, on the first Monday in *March*; but if the number required by law shall not assemble on that day, it shall be lawful for a sufficient number to meet and perform the business on any subsequent day in the said month. The Overseers of the poor of the different Districts, if there be more than one in the County, shall bring with them to such annual meeting, a distinct state of the number, names, and situation of the poor, and an account of their expenditures in their respective Districts; and a majority of the Overseers of the poor in the County so meeting, and there being in such majority at least one Overseer of the poor from each District, shall choose a President, and shall be empowered to regulate the necessary provisions to be made for all the poor of the County, exclusive of the poor of any corporate town, for the succeeding year, as well as to adjust and settle the charges of supporting and maintaining the poor the preceding year, and to levy and assess upon all such taxables of their County as are subject to County levies, except the inhabitants of any corporate town, and settle the amount of the poor rate upon each such taxable in specie; for which purpose the Clerk of the County shall furnish the said Overseers with a certified copy of the list of all such taxables in the County, exclusive of those in any corporate town within the same, if any such there be. *b*

V. THE Overseers of each District shall provide for the poor, lame, blind, and other inhabitants of the District not able to maintain themselves, and may also provide houses, nurses, and doctors, in such cases as they or a majority of them shall think necessary; the expenses of which shall be provided for in the succeeding levy. *c*

VI. IF any poor person shall suppose that he or she is entitled to the benefit of the laws for the relief of the poor, and the Overseers of the District in which he or she resides, shall refuse to give such person the benefit thereof, upon application of such person, the County Court may, if they think proper, direct the Overseers to receive him or her upon their lists of poor. *c*

VII. THE Overseers of each District shall take effectual measures to prevent the poor resident within the same from strolling into another County; and each of the Overseers within a County, may make complaint before a Justice of the Peace, that any poor person or poor persons, is, or are come into their County, and is, or are likely to become chargeable thereto; whereupon it shall be lawful for such Justice, by warrant under his hand, to cause such poor person to be removed to the County or District, where he or she was last legally settled; but if such poor person be sick or disabled, and cannot be removed without danger of life, the Overseers shall provide for his or her maintenance or cure, at the charge of their County, and after recovery, shall cause him or her to be so removed, and the County or District wherein he or she was last legally settled, shall repay all charges occasioned by the sickness, maintenance and cure of such poor person, and for removing him or her, and also all charges and expenses, if such person shall die before removal. And if the Overseers of the County or District to which such poor person belongs, shall refuse to receive and provide for the person or persons so removed, every Overseer so refusing, shall forfeit and pay sixty dollars. And if the Overseers of the poor where such poor person was last legally settled, shall refuse to pay and satisfy all the charges and expenses aforesaid, the same may be recovered from them by suit, to be brought in the names of the Overseers by whom such disbursement may have been made, with the costs of such suit, in any Court of Record. *d*

VIII. WHERE any dispute shall arise respecting the residence of any poor persons, the Court of any County adjacent, is authorised to take cognizance thereof, and to determine the same. *e*

IX. THE Overseers of the poor of each District shall monthly make returns to the Court of their County of the poor orphans in their District, and of such children within the same, whose parents they shall judge incapable of supporting them, and bringing them up in honest courses; and the said Court is hereby authorised to direct the said Overseers, or either of them, to bind out

Overseers to meet together annually, and levy the poor rate.

To provide for the poor, lame, and blind.

County court may direct them to receive any poor person on their list.

Poor persons strolling from one country to another, may be removed to that in which they were last legally settled.

Disputes concerning residence of poor persons how to be determined.

Overseers of the poor to make monthly returns to the county courts of the poor orphans, and of the children of persons

(a) 1791, ch. 20. (b) 1787, ch. 43, sec. 2. 1791, ch. 20, sec. 2. (c) '86, ch. 17, sec. 3. (d) 1748, ch. 13, sec. 6. (e) 1785, ch. 17, sec. 3.

unable to support them,
and bind them appren-
tices.

To appoint a collector
of the poor rate, and
take bond and security
of him.

Collector's commission.

When they may distrain
for the poor rates.

Sheriffs and serjeants
bound to collect the
poor rates if required.

If the collector dies, a-
nother may be appoint-
ed.

Collectors may appoint
deputies.

Remedy against them
for failing to settle their
accounts or pay the mo-
ney.

Against the overseers of
the poor for failing to
pay the money to the
persons intitled thereto.

Overseers to settle with
their predecessors, and

such poor orphans and children apprentices to such person or persons as the Court shall approve of, until the age of twenty-one years, if a boy, or eighteen years, if a girl, on the terms prescribed and directed by the act, "*To reduce in- to one, the several Acts concerning Guardians, Orphans, Committees, Infants, Mas- ters, and Apprentices.*" *a*

X. AND the Overseers of the poor shall also be, and they are hereby em- powered and required, at their annual meeting, to appoint a collector of such County poor rate, and to take from him bond with sufficient security, in a sum double the amount of the sum to be collected by him, payable to their Presi- dent, for the use of the said Overseers of the poor, to be applied towards lessen- ing the County poor rate, and conditioned for the faithful and diligent collec- tion of the said poor rate, and the payment to the several persons respectively entitled thereto, of the sums of money due to them according to the entries and accounts of the said Overseers of the poor, (a copy of which shall be delivered to such collector,) and also for settling with the said Overseers of the poor, or their successors, at the next annual meeting, a just and true account of all his re- cepts and disbursements, with proper vouchers, and paying whatever balance shall, upon such settlement, appear to be in his hands. *b*

XI. THE said collector shall be allowed the same commission for receiving the poor rate as the Sheriff is by Law allowed for receiving County levies, and shall be subject to the same rules and regulations, and shall have the power of distress in case of non-payment of any person chargeable therewith, immediately after the tenth day of *April* in every year. *b*

XII. IT shall be the duty of the Sheriff of every County, and of the Ser- jeant of any City or Borough, if appointed by the Overseers of the poor to col- lect any poor rate, to collect and account for the same, and they shall be liable to all things required and imposed on a collector of such rate by Law. Any Sheriff or Serjeant refusing to undertake such collection, shall forfeit and pay the sum of one hundred and fifty dollars, to be recovered in manner aforesaid, for the use aforesaid. *c*

XIII. IN case of the death of any person appointed to collect the poor rates at any time before his collection begins, the Overseers of the poor shall and may have power to assemble and appoint another collector, of whom they shall take bond with sufficient security, in the same manner as is directed to be taken of a collector appointed at their annual meeting; which collector shall have the same powers, and be subject to the same rules and regulations, and be moved against in the same manner, as other collectors of the poor rates. *d*

XIV. IT shall be lawful for such collector to appoint one or more deputies to assist him in the collection of the poor rate, for whose conduct he shall be answerable, which deputies shall have the same powers as the collector himself; and if such collector shall refuse or neglect to settle his accounts with the Over- seers of the poor, as herein before directed, or shall fail or refuse to pay them any money which shall be in his hands, or in the hands of any of his deputies, or shall delay or refuse to pay off the several claims to the persons respectively entitled thereto, by order of two or more Overseers, on or before the first day of *September* annually, it may and shall be lawful for the Court of the County and Corporation wherein such collector was appointed, upon the motion of the O- verseers of the poor, or of any of the persons having legal claims, to grant judg- ment against such collector and his securities, for the sums of money respectively due to the said Overseers, or to such legal claimants, with costs; provided such collector and his securities have ten days previous notice of such motion. And such collector shall have the same remedy and mode of recovery against his de- puties, or either of them, and their securities respectively, for any sums of mo- ney which, by virtue of this Act, such collector may be subjected to the pay- ment of, on account of the transactions of any of his deputies. *e*

XV. WHENSOEVER any Overseer or Overseers of the poor have, or may hereafter receive of the collectors of the poor rates, any money, and shall fail to pay the same to the person or persons entitled thereto, when demanded, such person or persons, their heirs, executors, or administrators, shall have the same remedy against such Overseer or Overseers, their heirs, executors, or adminis- trators, as he, or they, might have had against the collector if the money had re- mained in his hands. *f*

XVI. THE Overseers of the poor at their annual meeting, shall be, and they are hereby empowered to settle the accounts of the former Overseers, and

(a) 1786, ch. 17, sec. 4. (b) 1787, ch. 48, sec. 3. (c) 1788, ch. 53.
(d) 1791, ch. 20, sec. 5 (e) 1787, ch. 48, sec. 4. 1791, ch. 30, sec. 3, 4.

to receive from them any sums of money which shall be in their hands, and to call upon the collector or collectors heretofore appointed by any Vestry, or by any former Overseers, for a settlement of their accounts, and payment for any balances which shall be in their hands; and on failure of such payment, they shall have the same mode of recovery as is directed by this Act, for the recovery of money or tobacco in the hands of a collector of their own appointment. Wheresoever any former churchwarden, collector, or Overseer of the poor is dead, or shall hereafter die, without settling his accounts and paying the balance due from him, his executors and administrators shall be liable to the same recovery as the churchwarden, collector, or Overseer himself would have been subject to in his lifetime: Saving to such executors and administrators, the benefit of all pleas, to which they may be by Law entitled. *a*

XVII. THE said Overseers of the poor shall also be, and are hereby empowered, to levy in the manner before directed, such sums of money as shall be necessary to pay any arrears which may be due and unpaid by any Parish or District to individuals. *a*

XVIII. ALL the proceedings and accounts of the Overseers of the poor shall be regularly entered in a book, and shall be signed by the members present at each annual meeting; and for this purpose the said Overseers of each County, or a majority of them, shall be, and are hereby empowered to appoint a Clerk, and at any time upon his misbehaviour or neglect of duty, to remove him and appoint another in his stead, and to make such Clerk an allowance not exceeding twenty dollars annually for his services. *a*

XIX. AT the said annual meeting, each of the Overseers of the County who are present, shall have a vote, and if upon any such vote they be equally divided, the question shall be decided in favor of that side on which the president shall have voted. *a*

XX. THE Overseers of the poor, if they demand the same, shall be allowed one dollar each, to be charged in their account of other expenditures, for every day they shall attend the beforementioned annual meeting, and shall be subject to a penalty of two dollars for every day each of them respectively shall fail to attend the same, to be computed in both cases from the first day of such annual meeting during the continuance thereof; and their Clerk shall in like manner be subject to the penalty of two dollars for every day he shall fail to attend such annual meeting, unless such Overseers of the poor, or their Clerk respectively, shall be prevented from attendance by sickness, or other unavoidable accident; to be recovered with costs by warrant before any Justice of the Peace for the County. *a*

XXI. THE Courts of the several Counties within this Commonwealth, are hereby empowered and required upon application, to exempt from the payment of poor rates all such persons as from age or infirmities are, or may hereafter be entitled to an exemption from the payment of public taxes; and all those persons who have been exempted heretofore from the payment of public taxes, are hereby exempted from the payment of the said poor rates. *b*

XXII. THE Overseers of each District shall in the month of *October*, in each year, settle their accounts with the County Court, and the money which shall remain in their hands, or in the hands of their collector, unappropriated, shall be deducted from the rate to be made for the ensuing year. And the Overseers of each District failing to render their accounts as aforesaid, shall respectively be liable to a forfeiture of one hundred dollars for such failure, to be recovered by an action of debt in their respective County Courts, commenced in the name of the Clerk of the said Court, (at the expense of the County) to be applied towards lessening the levy of such County, and the Court of the County where the failure shall happen, are hereby directed to order the Attorney for the Commonwealth to institute the suit. *c*

XXIII. IF any single woman not being a servant or slave, shall be delivered of a bastard child, which shall be chargeable, or likely to become chargeable to any County, and shall upon examination before any Justice of the Peace of the County, to be taken in writing upon oath, charge any person not being a servant, with being the father of such bastard child, it shall and may be lawful for any Justice of the Peace of the County, wherein the person so charged shall be a resident or inhabitant, upon application made to him by the Overseers of the poor, or any one of them of the County wherein such child shall be born, to issue

with the former collectors.

To levy a sufficient sum to pay any arrears due.

Their proceedings and accounts to be entered in a book.
May appoint a clerk.

How they shall vote.

Allowance to them.

Penalty for non-attendance.

Penalty on their clerk for non-attendance.

County courts may exempt persons from payment of poor rates.

Overseers annually to settle their accounts with the county courts.

Penalty for failures

How the fathers of bastard children, born of free single women, may be compelled to support them.

(a) 1787, ch. 48, sec. 5, 6, 7, 8, 10. (b) 1787, ch. 43, sec. 1. (c) 1786, ch. 17, sec. 5.

his warrant for the immediate apprehending the person so charged as afore-
said, and for bringing him before such Justice, or before any other Justice of the
Peace of the County wherein he is a resident or inhabitant; and the Justice be-
fore whom such person shall be brought, is hereby authorised and required to
commit the person so charged as aforesaid, to the common Jail of his County,
unless he shall enter into a recognizance, with sufficient security, in the sum of
thirty dollars, upon condition to appear at the next Court to be held for such
County, and to abide and perform such order or orders as shall be made by the
said Court. And if upon the circumstances of the case, the Court shall adjudge
the person so charged to be the father of such bastard child, and that such child
is likely to become chargeable to the County, they shall and may in their dis-
cretion take order for keeping such bastard child, by charging the father with
the payment of money for the maintenance of such child, in such manner, and
in such proportions as they shall think meet and convenient, and for such time
as such child is likely to become chargeable to the County, and no longer.
And the father of such child shall enter into a recognizance, with sufficient secu-
rity before the said Court, in such sum as the said Court in their discretion shall
think fit, payable to the Governor of this Commonwealth for the time being,
and his successors, to observe and perform such order or orders of the Court as
afore said. And if the father charged with the maintenance of such bastard
child as afore said, shall make default and not pay the money so as afore said
charged upon him by order of the said Court, to the Overseers of the poor, for
the maintenance of such child, the Court before whom the recognizance was en-
tered into, shall from time to time, upon the motion of the Overseers of the
poor, or any one of them, enter up judgment and award execution for the money
in such order or orders mentioned, as the same shall become due against the
said father and his securities, their executors, or administrators; provided ten
days notice be given to the parties against whom such motion is made, before
the making thereof. And if the father of such child shall refuse to enter into
recognizance as afore said, such father shall be committed by the said Court to
the Common Jail of the County, there to remain without bail or mainprize, un-
til he shall enter into such recognizance as afore said, or until he shall discharge
himself, by taking the oath of an insolvent debtor, and delivering in a sche-
dule of his estate in manner directed by the laws for debtors in execution,
(and which estate shall by order of the Court be applied towards indemnify-
ing the County,) or until the Overseers of the poor shall consent to his
discharge. *a*

No woman while preg-
nant, to be questioned
by the justices concern-
ing her pregnancy.

Bastard children may
be bound apprentices by
the overseers of the
poor.

Vagrants how to be
treated, when found
within any county.

XXIV. *PROVIDED always*, That it shall not be lawful for any Justice
or Justices of the Peace, to send for any woman whatsoever, before she shall be
delivered, in order to her being examined concerning her pregnancy, or
to compel her to answer any questions relating thereto before her delivery. *a*

XXV. EVERY bastard child may be bound apprentice by the Overseers of
the poor of the District for the time being wherein such child shall be born;
every male until he attains twenty-one years, and every female until she attains
eighteen years, and no longer; and the master or mistress shall be subject to
the same conditions as are prescribed in the case of an apprentice, by the Act,
intituled, "*An Act to reduce into one, the several Acts concerning guardians, or-
phans, committees, infants, masters, and apprentices.*" *a*

XXVI. THE Overseers of the poor, or any one of them, shall be, and are
hereby empowered, upon discovering any vagrant or vagrants within their re-
spective Districts, to make information thereof to any Justice of the Peace for
the County, and to require a warrant for apprehending such vagrant or vagrants,
to be brought before him, or some other Justice of the Peace for the said Coun-
ty; and if upon due examination, it shall appear to such Justice, that the per-
son or persons are within the true description of a vagrant, as hereinafter men-
tioned, such Justice shall, by warrant under his hand, order such vagrant or va-
grants to be delivered to some one of the Overseers of the poor of the District in
which such vagrant or vagrants shall have been apprehended, to be employed
in labor for any term not exceeding three months, and by the said Overseer of
the poor hired out for the best wages that can be procured, to be applied to the
use of the poor. And if any such vagrant or vagrants shall during such time of
service, run away from the person so employing him or them, he or they shall
be dealt with in the same manner as other run-away servants. *b*

XXVII. THE Corporation Courts of the several corporate towns within this Commonwealth, shall be, and they are hereby respectively empowered and required, to provide for and maintain the poor within the limits of their respective towns, separately and distinctly from the poor of the County; and any two Magistrates of any such Corporation Court, shall be, and are hereby empowered by warrant, under their hands, to cause to be removed any poor person to the last place of his or her legal residence, who hath not been resident within the limits of such town for one year last past before such removal. And in like manner the Overseers of the poor within the County, shall be, and they are hereby empowered, by warrant under the hands of any two of them, to cause to be removed into any corporate town, any poor person whose residence shall have been within the limits of such town for one year last past before such removal; except in both cases such poor persons only as have been lodged in any poor-house at any time during the last two years, who shall be respectively returned to, and maintained by the County or Town, according to their respective usual residence in either. *a*

Corporation courts to provide for their own poor.

Any two magistrates thereof may remove poor persons to the places of their legal residence.

Overseers of the poor of a county may remove to any corporation, any poor person belonging thereto.

XXVIII. THE several County and Corporation Courts, shall be, and they are hereby respectively empowered, whenever they shall judge it necessary, to provide or build a poor-house and work-house for the reception of their poor, and for the reformation of vagrants, and to employ a proper person or persons as stewards or managers thereof, subject to the direction and controul of such Corporation Court. *a*

County and corporation courts may provide poor-houses.

XXIX. AND the said Corporations shall be, and they are hereby respectively empowered and required, to levy and assess annually upon their respective towns, either by way of poll-tax upon the inhabitants, or by a tax upon houses or other property within the limits of the town, as they shall judge best, all charges incurred for the support and maintenance of their poor; and also the charges which may be incurred in providing or building a poor-house and work-house, and in the government and management of the same. *a*

Corporations to levy annually, money for the support of their poor.

XXX. THE inhabitants of any such corporate town not having a freehold estate in the County without the limits of the town, shall be disabled from voting in any election of the Overseers of the poor in the respective Counties, nor shall any inhabitant of any Corporate town be capable of serving as an Overseer of the poor in any County. *a*

Inhabitants thereof not freeholders in the county, not to vote for overseers of the poor.

XXXI. IT shall and may be lawful for any Magistrate of any such Corporation Court, upon discovering any vagrant or vagrants within the limits of the town, to issue his warrant for apprehending such vagrant or vagrants for examination; and if upon such examination before two Magistrates of the Corporation Court it shall appear that the person or persons so apprehended are within the true description of a vagrant as hereinafter mentioned, the said two Magistrates shall be, and are hereby empowered, by warrant under their hands, to commit such vagrant or vagrants to the work-house, there to be employed in labor for any term not exceeding three months; and if there be no work-house in such town, the said two Magistrates may, and they are hereby empowered to proceed with such vagrant or vagrants in the same manner as the Overseers of the poor are herein before directed to proceed upon any vagrant or vagrants being delivered to them. *a*

Vagrants how to be treated when found within a corporation.

XXXII. ANY able bodied man, who, not having wherewithal to maintain himself, shall be found loitering, and shall have a wife or children, without means for their subsistence, whereby they may become burthen some to their County or Town; and any able bodied man without a wife or child, who, not having wherewithal to maintain himself, shall wander abroad, or be found loitering without betaking himself to some honest employment, or shall go about begging, shall be deemed and treated as a vagrant. *† a*

Who shall be deemed vagrants.

XXXIII. SO much of the clause respecting vagrants or idle persons not having wherewithal to maintain themselves in the Act, intituled, "*An Act concerning seamen*," as is contrary to this Act, shall be, and is hereby repealed. *a*

Part of a former law concerning them repealed.

XXXIV. ALL the forfeitures and penalties inflicted by this Act, shall be, one half to the informer, and the other half to the use of the Overseers of the poor for the County, to be applied by them towards the support and maintenance of such poor, unless where by this Act it is otherwise directed. *a*

Penalties and forfeitures how appropriated.

(*a*) 1787, *ch. 48, sec. 14, 15, 16, 17, 20, 19.* *† Keepers of A. B. C. and E. O. tables, or of a Faro-bank, shall be deemed vagrants. See ante, ch. 96.*

What shall be deemed a legal settlement.

XXXV. AND for determining what shall be accounted a legal settlement within this Act, *It is hereby enacted and declared*, that no person shall be accounted an inhabitant so as to have gained a legal settlement, until such person shall have been actually resident in the County wherein he shall claim a legal settlement for the space of one whole year. *a*

Fines, &c. appropriated towards lessening the county levies, how to be collected.

XXXVI. ALL fines and forfeitures hereafter to be inflicted under any penal law, which are appropriated to the use of the County, towards lessening the levy for the support of the poor, shall be collected, levied, accounted for, and paid by the Sheriffs of the Counties to the Overseers of the poor in their several Counties respectively, in like manner, and subject to the same remedy and proceedings against them for default, as the collectors appointed by virtue of this Act are subject to, in default of collecting the levies imposed by virtue thereof. *b*

Arrearages due to parishes, how recoverable.

XXXVII. THE trustees of any religious society shall have full power and authority to prosecute all suits heretofore instituted, and now depending upon bond or otherwise, for any arrearages due to the different parishes within this Commonwealth. *c*

Repealing clause.

XXXVIII. ALL and every Act or Acts, clause or clauses of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Provided.

XXXIX. *PROVIDED nevertheless*, That all rights, remedies, fines, penalties, and forfeitures, incurred or accruing under any former Act, shall remain in the same condition as if this Act had not been made. *And provided also*, that nothing herein contained shall be construed in any manner to alter or repeal one Act of General Assembly, passed on the twelfth day of December, one thousand seven hundred and ninety one, intitled, "*An Act concerning the poor of the Parish of Suffolk, in the County of Nansemond.*"

Commencement of this act.

XL. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. CIII.

An Act to reduce into one, the several Acts concerning Slaves, Free Negroes and Mulattoes.†

[Passed the 17th of December, 1792.]

Who shall be deemed slaves.

I. **B**E it enacted by the General Assembly, That no persons shall henceforth be slaves within this Commonwealth, except such as were so on the seventeenth day of October, in the year one thousand seven hundred and eighty-five, and the descendants of the females of them. *d*

When slaves hereafter imported shall be free.

II. SLAVES which shall hereafter be brought into this Commonwealth, and kept therein one whole year together, or so long at different times as shall amount to one year, shall be free. *e*

Penalties on the importers of slaves, and on the sellers and buyers.

III. EVERY person hereafter importing slaves into this Commonwealth, contrary to this Act, shall forfeit and pay the sum of two hundred dollars for every slave so imported; and every person selling or buying any such slaves, shall in like manner forfeit and pay the sum of one hundred dollars for every slave so sold or bought; one moiety of which forfeitures shall be to the use of the Commonwealth, and the other moiety to him or them that will sue for the same; to be recovered by action of debt or information in any Court of Record. *e*

Exceptions in favor of emigrants from any of the United States taking a certain oath within a limited time.

IV. *PROVIDED*, That nothing in this Act contained, shall be construed to extend to those who may incline to remove from any of the United States and become citizens of this, if within sixty days after such removal he or she shall take the following oath before some justice of the Peace of this Commonwealth: *f*

(a) 1748, ch. 13, sec. 5. (b) 1791, ch. 20, sec. 7. (c) 1788, ch. 53, sec. 4. † See act of 1795, ch. 11, giving remedy to persons illegally detained in slavery. See acts of '96, ch. 11, allowing persons carrying slaves from this into another state, to bring them back. 1797, sec. 3, of ch. 4, directs that suits brought by slaves to recover their freedom, shall be tried at next court succeeding such suit, unless evidence cannot be obtained. See act passed Dec. sess. 1800, ch. 70; another act of Dec. sess. 1801, pa. 16, ch. 21. (d) 1785, ch. 77, sec. 1. (e) Oct. '78, ch. 1, sec. 2. (f) '85, ch. 77, sec. 5.

I, A. B. do swear, that my removal into the State of Virginia, was with no intent of evading the laws for preventing the further importation of slaves, nor have I brought with me any slaves, with an intention of selling them, nor have any of the slaves which I have brought with me, been imported from Africa, or any of the West India Islands, since the first day of November, one thousand seven hundred and seventy-eight. So help me GOD.

Nor to any persons claiming slaves by descent, marriage or devise; nor to any citizens of this Commonwealth, being now the actual owners of slaves within any of the United States and removing such hither; nor to travellers and others making a transient stay, and bringing slaves for necessary attendance, and carrying them out again. *a*

V. NO negro or mulatto shall be a witness, except in pleas of the Commonwealth against negroes or mulattoes, or in civil pleas, where negroes or mulattoes alone shall be parties. *a* +

VI. NO slave shall go from the tenements of his master or other person with whom he lives, without a pass, or some letter or token, whereby it may appear that he is proceeding by authority from his master, employer, or overseer: If he does, it shall be lawful for any person to apprehend and carry him before a Justice of the Peace, to be by his order punished with stripes, or not, in his discretion. *a*

VII. AND if any slave shall presume to come and be upon the plantation of any person whatsoever, without leave in writing from his or her owner, or overseer, not being sent upon lawful business, it shall be lawful for the owner or overseer of such plantation, to give or order such slave ten lashes on his or her bare back for every such offence. *b*

VIII. NO negro or mulatto whatsoever shall keep or carry any gun, powder, shot, club, or other weapon whatsoever, offensive or defensive, but all and every gun, weapon, and ammunition found in the possession or custody of any negro or mulatto, may be seized by any person, and upon due proof thereof made before any Justice of the Peace of the County or Corporation where such seizure shall be, shall by his order be forfeited to the seizer for his own use; and moreover, every such offender shall have and receive by order of such Justice, any number of lashes not exceeding thirty-nine, on his or her bare back, well laid on, for every such offence. *b*

IX. PROVIDED nevertheless, That every free negro or mulatto, being a house-keeper, may be permitted to keep one gun, powder and shot; and all negroes and mulattoes, bond or free, living at any frontier plantation, may be permitted to keep and use guns, powder, shot, and weapons, offensive or defensive, by license from a Justice of Peace of the County wherein such plantation lies, to be obtained upon the application of free negroes or mulattoes, or of the owners of such as are slaves. *b*

X. EVERY person other than a negro, of whose grand-fathers or grand-mothers any one is, or shall have been a negro, although all his other progenitors, except that descending from the negro, shall have been white persons, shall be deemed a mulatto; and so every such person who shall have one fourth part or more of negro blood, shall in like manner be deemed a mulatto. *c*

XI. RIOTS, routs, unlawful assemblies, trespasses and seditious speeches by a slave or slaves, shall be punished with stripes, at the discretion of a Justice of the Peace, and he who will, may apprehend and carry him, her, or them, before such Justice. *d*

XII. AND to prevent the inconveniences arising from the meetings of slaves, *Be it further enacted*, That if any master, mistress, or overseer of a family, shall knowingly permit or suffer any slave not belonging to him or her, to be and remain upon his or her plantation above four hours at any one time, without leave of the owner or overseer of such slave, he or she so permitting, shall forfeit and pay three dollars for every such offence; and every owner or overseer of a plantation, who shall so permit or suffer more than five negroes or slaves, other than his or her own, to be and remain upon his or her plantation or quarter at any one time, shall forfeit and pay one dollar for each negro or slave above that number; which said several forfeitures shall be to the informer, and recoverable with costs, before any Justice of Peace of the County or Corporation where such offence shall be committed. *e*

(*a*) 1785, ch. 77, sec. 2, 3. + Altered by act of Dec. sess. 1800, ch. 70; negroes or mulattoes, bond or free, are by that act made legal witnesses against each other. (*b*) 22, Geo. 2, ch. 31, sec. 17, 18, 19. (*c*) 1785, ch. 78. (*d*) 16, ch. 11, sec. 4. (*e*) 22, Geo. 2, ch. 31, sec. 13.

And of citizens claiming slaves by descent, devise, or marriage, or being now the owners & removing them from another state, and travellers carrying them out again.

In what cases negroes or mulattoes may or may not be witnesses. Slaves not to go from home, without passes.

Coming on the plantations of others without leave from their masters, may be whipped.

Negroes and mulattoes not to keep or carry arms.

Except those living on the frontiers licensed by the justices of the peace.

Who shall be deemed mulattoes.

Punishment of slaves for riots, unlawful assemblies, seditious speeches, &c.

No person shall permit the slaves of others to remain on his plantation.

Proviso.

XIII. *PROVIDED always*, That nothing herein contained, shall be construed to prohibit the negroes or slaves of one and the same owner, though seated at different quarters, from meeting, with their owner's or overseer's leave, upon any plantation to such owner belonging, nor to restrain the meeting of slaves on their owner's or overseer's business at any public mill, so as such meeting be not in the night time, nor on a *Sunday*, nor to prohibit their meeting on any other lawful occasion, by license in writing from their owner or overseer, nor their going to church and attending divine service on the Lord's day, or any other day of public worship. *a*

Punishment of persons present at unlawful meetings of slaves, or harbouring others slaves.

XIV. IF any white person, free negro, mulatto, or *Indian*, shall at any time be found in company with slaves at any unlawful meeting, or shall harbour or entertain any slave without the consent of his or her owner, such person being thereof convicted before any Justice of the Peace, shall forfeit and pay three dollars for every such offence to the informer, recoverable with costs before such justice; or on failure of present payment, shall receive on his or her bare back twenty lashes, well laid on, by order of the Justice before whom such conviction shall be. *a*

Duty of justices, sheriffs, and other officers in suppressing unlawful meetings.

XV. AND every Justice of Peace upon his own knowledge of such unlawful meeting, or information thereof to him made within ten days after, shall issue his warrant to apprehend the persons so met or assembled, and cause them to be brought before himself, or any other Justice of his County or Corporation, to be dealt with as this Act directs; and every Justice failing herein, shall forfeit and pay eight dollars for every such failure; and every sheriff, or other officer, who shall fail upon knowledge or information of such meeting, to endeavour to suppress the same, and bring the offenders before some Justice of Peace to receive due punishment, shall be liable to the like penalty of eight dollars; both which penalties shall be to the informer, and recoverable with costs by action of debt in any County or Corporation Court; and every under sheriff, serjeant, or constable, who upon knowledge or information of such meeting, shall fail to perform his duty in suppressing the same, and apprehending the persons so assembled, shall forfeit and pay four dollars for every such failure to the informer, recoverable with costs, before any Justice of the County or Corporation wherein such failure shall be. *a*

Penalty for dealing with a slave without his master's leave.

XVI. NO person whatsoever shall buy, sell, or receive of, to, or from a slave, any commodity whatsoever, without the leave or consent of the master, owner, or overseer of such slave. And if any person shall presume to deal with any slave without such leave or consent, he or she so offending, shall forfeit and pay to the master or owner of such slave, four times the value of the thing so bought, sold, or received, to be recovered with costs, by action upon the case in any court of record within this commonwealth, and shall also forfeit and pay the further sum of twenty dollars to any person who will sue for the same; to be recovered with costs, by summons and petition in the same manner as other debts not exceeding twenty dollars, nor under five dollars, in any court of record, or receive on his or her bare back thirty-nine lashes, well laid on, at the public whipping-post, but shall nevertheless be liable to pay the costs of such summons and petition. *b*

Punishment of a negro or mulatto lifting his hand against a white person.

XVII. IF any negro or mulatto, bond or free, shall at any time lift his or her hand in opposition to any person not being a negro or mulatto, he or she so offending, shall, for every such offence, proved by the oath of the party before a Justice of the Peace of the County or Corporation, where such offence shall be committed, receive such punishment as the Justice shall think proper, not exceeding thirty lashes, on his or her bare back, well laid on, except in those cases when it shall appear to such Justice, that such negro or mulatto was wantonly assaulted, and lifted his or her hand in his or her defence. *c*

In what cases the courts may direct slaves to be castrated.

XVIII. IT shall not be lawful for any County or Corporation Court to order and direct castration of any slave, except such slave shall be convicted of an attempt to ravish a white woman, in which case they may inflict such punishment. *d*

Owner not barred of his remedy where his slave is killed, or dies

XIX. *PROVIDED always*, That nothing herein before contained shall be construed to bar the action of any person whose slave or slaves shall be killed by any other person or persons whatsoever, or shall die through the negligence of

(a) 22, Geo. 2 ch. 31, sec. 14, 15, 16. † By act of Dec. sess. 1801, pa. 16, ch. 21, an additional penalty is imposed for dealing with slaves on sabbath. (b) 1785, ch. 77, sec. 6. (c) From 22, Geo. 2, ch. 31, sec. 20. (d) From 10 Geo. 3, ch. 10, sec. 1.

any surgeon or other person undertaking the dismembering or cure of any slave so punished by order of Court; but every owner shall and may have the same remedy for the death and loss of his or her slave or slaves, as he or she might have had if this Act had never been made. *a*

through negligence of the surgeon undertaking to dismember or cure him.

XX. AND whereas many times slaves run away and lie out hid and lurking in swamps, woods, and other obscure places, killing hogs, and committing other injuries to the inhabitants of this commonwealth; *Be it therefore enacted*, that in all such cases, upon intelligence given of two or more slaves lying out as aforesaid, any two Justices of the Peace of the County wherein the slaves are supposed to lurk or do mischief, shall be, and are empowered and required by warrant, reciting their names and owners names if known, to direct the sheriff of the said County to take such power with him, as he shall think fit and necessary for the effectual apprehending such out-lying slave or slaves, and go in search of them, and upon their being apprehended to commit them to the jail of his County for further trial. *a*

Process against out-lying slaves.

XXI. IF any negro or other slave shall at any time consult, advise, or conspire to rebel, or make insurrection, or shall plot or conspire the murder of any person or persons whatsoever, every such consulting, plotting, or conspiring, shall be adjudged and deemed felony, and the slave or slaves convicted thereof, in manner hereinafter directed, shall suffer death, and be utterly excluded all benefit of clergy. *a*

Conspiracy of slaves to rebel or murder, felony without clergy.

XXII. IF any negro or other slave shall prepare, exhibit, or administer any medicine whatsoever, he or she so offending, shall be judged guilty of felony, and suffer death without benefit of clergy. *a*

Or to prepare or administer medicine.

XXIII. *PROVIDED always*, That if it shall appear to the Court before whom such slave shall be tried, that the medicine was not prepared, exhibited, or administered with an ill intent, nor attended with any bad consequences, such slave shall be acquitted. *a*

Proviso.

XXIV. *AND provided also*, That nothing herein contained shall be construed to extend to any slave or slaves administering medicines by his or her master's or mistress's order in his or her family, or the family of another, with the mutual consent of the owner of such slave, and the master or mistress of such family. *a*

XXV. IF any master or owner of a slave, shall license such slave to go at large, and trade as a freeman, the master or owner shall forfeit and pay the sum of thirty dollars for the use of the poor of the district where such slave shall be found going at large and trading as aforesaid, to be recovered by the Overseers of the Poor, by action of debt, in any Court of record within this Commonwealth; and if after conviction such slave shall be found so going at large and trading, the master or owner shall again be liable to the like penalty, to be recovered as aforesaid, and so as often after conviction, as such slave shall be found so going at large and trading. *b*

Penalty for suffering a slave to go at large and trade as a freeman.

XXVI. IF any person shall permit or suffer his or her slave to go at large, or hire him or herself out, it shall be lawful for any person to apprehend and carry every such slave before a justice of peace in the County or Corporation where apprehended, and if it shall appear to the justice that such slave comes within the purview of this Act, he shall order him or her to the jail of the County or Corporation, there to be safely kept until the next Court, when, if it shall be made appear to the Court that the slave so ordered to jail hath been permitted or suffered to hire him or herself out, contrary to the meaning of this Act, it shall be lawful for the Court, and they are hereby required, to order the sheriff or other officer of the County or Corporation, to sell and dispose of every such slave for ready money, at the next Court held for the said County or Corporation, notice being given by the sheriff or other officer at the Court-house door, at least twenty days before the said sale. *c*

Slaves suffered to go at large and hire themselves out may be apprehended and sold.

XXVII. *TWENTY-FIVE per centum* upon the amount of the sale of every slave so going at large or hiring out himself or herself, shall be applied by the Court ordering such sale towards lessening the County levy, and the residue shall be paid by the sheriff or other officer, after deducting five *per centum* for his trouble, and the jailor's fees, to the owner of such slave. *c*

Proceeds of the sales, how to be disposed of.

XXVIII. IF any person shall hereafter be guilty of stealing or selling any free person for a slave, knowing the said persons so sold to be free, and thereof

Felony without benefit of clergy to steal or sell

(a) 22, Geo. 2, ch. 31, sec. 25, 21, 2, 3, 4, 5. (b) 10, Geo. 3, ch. 19, sec. 8.
 † Amended by act of Dec. sess. 1800, ch. 70, and made more strict. (c) May 1782, ch. 32, sec. 1, 2.

Free persons as slaves.

Or to steal any slave.

How slaves shall be tried for criminal offences.

To be allowed counsel.

Not to be executed until the expiration of thirty days after conviction, except in certain cases.

The value of slaves condemned and executed, or dying before execution, to be paid by the public.

None interested to sit on trial of slaves.

What shall be legal evidence against them.

How they shall be punished for offences within the benefit of clergy.

Punishment of negroes or mulattoes for giving false testimony.

A charge to such witnesses.

shall be lawfully convicted, the person so convicted shall suffer death without benefit of clergy. *a*

XXIX. IF any person or persons shall steal any negro or mulatto whatsoever out of, or from the possession of the owner or overseer of such slave, the person or persons so offending, shall be, and are hereby declared to be felons, and shall suffer death without benefit of clergy. *b*

XXX. THE Justices of every County or Corporation, shall be justices of *oyer and terminer* for trying slaves charged with treason or felony, which trials shall be by five at least without juries upon legal evidence, at such times as the sheriffs or other officers shall appoint, not being less than five, nor more than ten days after the offenders shall have been committed to jail. No slave shall be condemned in any such case, unless all of the justices sitting upon his or her trial shall agree in opinion that the prisoner is guilty, after allowing him or her counsel in his or her defence, whose fee, amounting to five dollars, shall be paid by the owner of the slave: *Provided always*, That when judgment of death shall be passed upon any such offender, there shall be thirty days at least between the time of passing judgment and the day of execution, except in cases of conspiracy, insurrection, or rebellion.† *c*

XXXI. THE value of a slave condemned to die, who shall suffer accordingly, or before execution of the sentence perish, to be estimated by the justices triers, shall be paid by the public to the owner. One being detained in slavery, and having commenced an action to assert his freedom, shall be prosecuted and tried for any such crime in the same manner as a free man ought to be prosecuted and tried.† *c*

XXXII. NO person having interest in a slave shall sit upon the trial of such slave. *c*

XXXIII. AND for a declaration of what shall be deemed to be legal evidence in such cases, *It is further enacted*, that the Court may take for evidence the confession of the offender, the oath of one or more credible witnesses, or such testimony of negroes or mulattoes, bond or free, with pregnant circumstances, as to them shall seem convincing. *d*

XXXIV. WHEN any negro or mulatto whatsoever shall be convicted of any offence, within the benefit of clergy, judgment of death shall not be given against him or her upon such conviction, but he or she shall be burnt in the hand by the jailor in open Court, and suffer such other corporal punishment as the Court shall think fit to inflict, except where he or she once had the benefit of this Act, and in those cases such negro or mulatto shall suffer death without benefit of clergy. *d*

XXXV. WHERE any negro or mulatto shall be found upon due proof made, to any County or Corporation Court of this Commonwealth, to have given a false testimony, every such offender shall without further trial, be ordered by the said Court to have one ear nailed to the pillory, and there to stand for the space of one hour, and then the said ear to be cut off, and thereafter the other ear nailed in like manner, and cut off at the expiration of one other hour, and moreover to receive thirty-nine lashes on his or her bare back, well laid on, at the public whipping-post, or such other punishment as the Court shall think proper, not extending to life or limb; and at every such trial of slaves for capital offences, the person first named in the commission then sitting, shall before the examination of any negro or mulatto, not being a christian, charge such evidence to declare the truth; which charge shall be in the words following, to wit: *d*

YOU are brought hither as a witness, and by the direction of the Law I am to tell you, before you give your evidence, that you must tell the truth, the whole truth, and nothing but the truth; and that if it be found hereafter that you tell a lie, and give false testimony in this matter, you must for so doing have both your ears nailed to the pillory and cut off, and receive thirty-nine lashes on your bare back, well laid on, at the common whipping-post.

(a) 1787, ch. 37, sec. 2. (b) 27, Geo. 2, ch. 2, sec. 28. † By act of 1799, ch. 58, manner of holding called courts altered. (c) 1786, ch. 58. 1790, ch. 64, sec. 1. † By act of Dec. sess. 1800, ch. 43, the Governor with advice of Council authorized to dispose of slaves condemned to die. Dec. sess. 1801, ch. 4, pa. 8, directs that the owners of such slaves shall be paid for them as soon as the Executive determine to sell or transport them. (d) 22, Geo. 2, ch. 31, sec. 6, 8, 9.

XXXVI. IT shall be lawful for any person by his or her last will and testament, or by any other instrument in writing, under his or her hand and seal, attested and proved in the County or Corporation Court by two witnesses, or acknowledged by the party in the Court of the County where he or she resides, to emancipate and set free his or her slaves, or any of them, who shall thereupon be entirely and fully discharged from the performance of any contract entered into during servitude, and enjoy as full freedom as if they had been particularly named and freed by this Act. *a*

XXXVII. *PROVIDED nevertheless*, That all slaves so emancipated, shall be liable to be taken by execution, to satisfy any debt contracted by the person emancipating them, before such emancipation is made.

XXXVIII. *PROVIDED always*, That all slaves so set free, not being in the judgment of the Court of sound mind and body, or being above the age of forty-five years, or being males under the age of twenty-one, or females under the age of eighteen years, shall respectively be supported and maintained by the person so liberating them, or by his or her estate; and upon neglect or refusal so to do, the Court of the County or Corporation where such neglect or refusal may be, is hereby empowered and required upon application to them made, to order the sheriff or other officer to distrain and sell so much of the person's estate, as shall be sufficient for that purpose. *a*

XXXIX. *PROVIDED also*, That every person by written instrument in his lifetime, or, if by last will and testament, the executors of every person freeing any slave, shall cause to be delivered to him or her a copy of the instrument of emancipation, attested by the Clerk of the Court of the County or Corporation, who shall be paid therefor by the person emancipating, eighty-three cents, to be collected in the manner of other clerk's fees. Every person neglecting or refusing to deliver to any slave by him or her set free, such copy, shall forfeit and pay thirty dollars; to be recovered with costs in any Court of Record, one half thereof to the person suing for the same, and the other to the person to whom such copy ought to have been delivered. *a*

XL. IT shall be lawful for any justice of the peace to commit to the jail of his County or Corporation, any emancipated slave travelling out of the County of his or her residence, without a copy of the instrument of his or her emancipation, there to remain till such copy is produced and the jailor's fees paid. *a*

XLI. IN case any slave so liberated, shall neglect in any year to pay all taxes and levies imposed, or to be imposed by law, the Court of the County or Corporation shall order the Sheriff or Serjeant to hire out him, or her, for so long time as will raise the said taxes and levies, provided sufficient distress cannot be made upon his or her estate. *a*

XLII. SAVING nevertheless to all and every person and persons, bodies politic or corporate, and their heirs and successors, other than the person or persons claiming under those so emancipating their slaves, all such right and title as they or any of them could or might claim if this Act had never been made. *a*

XLIII. ALL negro and mulatto slaves in all Courts of judicature within this Commonwealth, shall be held, taken and adjudged to be personal estate.

XLIV. IF any widow possessed of a slave or slaves, as of the dower of her husband, shall remove or voluntarily permit to be removed out of this Commonwealth, such slave or slaves, or any of their increase, without the consent of him or her in reversion, such widow shall forfeit all and every such slave or slaves, and all other the dower which she holds of the endowment of her husband's estate, unto the person or persons that shall have the reversion thereof; any law, custom, or usage to the contrary notwithstanding. *b*

XLV. IF any widow possessed as aforesaid, shall be married to a husband, who shall remove, or voluntarily permit to be removed out of this Commonwealth, any such slave or slaves, or any of their increase, without the consent of him or her in reversion, in such case it shall be lawful for him or her in reversion to enter into, possess and enjoy all the estate which such husband holdeth in right of his wife's dower, for and during the life of the said husband. *b*

XLVI. WHERE one or more slaves shall descend from a person dying intestate, and an equal division thereof cannot be made in kind, on account of the nature of the property, it shall be lawful for the High Court of Chancery, or the Court of the County or Corporation, by which the administration to the estate of the intestate was granted, to direct the sale of such slave or slaves, and the distribution of the money arising therefrom, according to the rights of each

How slaves may be emancipated.

But may be taken by execution, to satisfy certain debts of their former masters.

Those of certain descriptions to be supported by their former masters.

Copy of the instrument of emancipation to be delivered to the slave.

Under a penalty.

Person emancipated travelling out of his county without such copy may be committed.

Failing to pay taxes and levies yearly, may be hired out.

Reservation of the rights of others.

Slaves to be deemed personal estate.

Penalty on widow removing dower slaves out of the state.

On the husband of any person so endowed.

Slaves of an intestate may be sold where an equal division in kind cannot be made.

Gifts of slaves not valid except by will or deed, if the donor remains in possession.

claimant. *Provided always*, that each claimant shall be first duly summoned to shew cause if any he can against such sale. *a*

XLVII. NO gift or gifts of any slave or slaves, shall be good or sufficient to pass any estate in such slave or slaves, to any person or persons whatsoever, unless the same be made by will, duly proved and recorded, or by deed, in writing, to be proved by two witnesses at the least, or acknowledged by the donor and recorded in the District Court, or the Court of the County or Corporation where one of the parties lives, within eight months after the date of such deed or writing. *b*

XLVIII. THIS act shall be construed to extend only to gifts of slaves, whereof the donors have, notwithstanding such gifts, remained in the possession, and not to gifts of such slaves as have at any time come into the actual possession of, and have remained with the donee, or some person claiming under such donee. *c*

Proviso respecting former adjudications.

XLIX. *PROVIDED always*, That nothing in this Act contained, shall be construed to alter any adjudication heretofore made, nor to affect the interest of any *bona fide* purchaser, for a valuable consideration, or creditor of the donor, before the donee hath been at least three years in possession of the slave or slaves under such gift, nor in any manner to restrain or affect the operation of the act of limitation. *c*

Penalty on a master of a vessel, carrying a servant or slave out of the state, without the owner's consent.

L. NO master of any ship, or any other vessel, shall transport or carry any servant whatsoever, or any negro, mulatto, or other slave out of this Commonwealth, without the consent or permission of the person or persons to whom such servant or slave doth of right belong, upon penalty of forfeiting and paying one hundred and fifty dollars for every servant, and three hundred dollars for every slave transported or carried hence, contrary to this act; one moiety to the Commonwealth, and the other moiety to the owner of such servant or slave, to be recovered with costs, by action of debt or information, in any Court of record of this Commonwealth; and moreover, such master shall be liable to the suit of the party grieved, at the common law, for his or her damages. *d*

In suits therefor the defendants may be ruled to give bail.

LI. IN any action which shall be brought against the master of a ship or vessel under this act, the Court wherein the same shall be depending, may rule the defendant to give special bail, if they see cause, and shall not allow him to plead in bar, or give in evidence any act or statute of limitation; any former or other law to the contrary, notwithstanding. *d*

Repealing clause. Proviso.

LII. ALL and every Act and Acts, clauses and parts of Acts, within the purview of this Act, shall be, and are hereby repealed. *Provided nevertheless*, That all rights, remedies, fines, penalties, and forfeitures incurred or accrued under any former Act, shall remain in the same condition as if this Act had not been made.

Commencement of this act.

LIII. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. CIV.

An Act to regulate the Solemnization of Marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen Marriages; and for Punishment of the Crime of Bigamy.†

[Passed the 22d of December, 1792.]

No person shall be married without license or publication of banns.

I. **B**E it enacted, That no minister shall celebrate the rites of matrimony between any persons, or join them together as man and wife, without lawful license, or thrice publication of banns according to the rubrick in the book of common prayer, if the parties so to be married shall be members of the Protestant Episcopal Church; and if the persons to be married dwell in several parishes, the banns shall be published in each parish, and the minister of the one shall not solemnize the matrimony, until he hath a certificate from the minister of the other parish, that the banns have been thrice published and no objection made against the parties joining together. And if any minister shall celebrate the rites of matrimony, or join any persons in marriage, without such license or publication of banns as by this act required, he shall, for every such

Penalty on ministers marrying without.

(a) 1790, ch. 13, sec. 2. (b) 1758, 32, Geo. 2, ch. 1, sec. 1. (c) 1787, ch. 22, sec. 2, 3. (d) 22, Geo. 2, ch. 17, sec. 1, 2. † Amended post, ch. 169, and in '96, ch. 28. Since the passage of this act, several acts have passed allowing courts of certain counties to appoint persons to solemnize marriages.

testimonial, or give them counter security.

Quakers and Menonists, &c. may solemnize marriages in the manner heretofore practised.

Certain marriages solemnized by magistrates, confirmed.

Fee for a marriage.

Penalties on ministers, clerks, and readers, for refusing to marry, publish the banns, or exacting more than legal fees.

Marriages to be registered.

Manner of issuing marriage licenses.

Where either of the parties is an infant.

to give up his testimonials to the Court from which they were obtained, any one of his securities, without instituting a suit, may proceed against him as if they were special bail in an action of debt, until he is thereunto compelled, or gives them sufficient caution for their indemnification. *a*

V. IT shall and may be lawful for the people called Quakers and Menonists, or any other Christian society, that have adopted similar regulations in their Church, to solemnize their own marriages, or to be joined together as husband and wife, by the mutual consent of the parties openly published and declared before their congregations when convened for religious worship, in the manner, and agreeable to the regulations that have heretofore been practised in the respective societies. *a*

VI. AND whereas some magistrates and others, not authorized by law, have been induced by the want of ministers to solemnize marriages,

VII. *Be it enacted*, That all such marriages openly solemnized, and made at any time before the first day of July, one thousand seven hundred and eighty-five, and which shall have been made, consummated by the parties cohabiting together as husband and wife, shall be taken, and they are hereby declared good and valid in law; and all and every person or persons solemnizing such marriages, are and shall be exonerated from all pains and penalties, as if they had been authorized ministers. *Provided always*, and it is the true intent and meaning of this act, that nothing herein contained, shall extend or be construed to extend to confirm any marriage heretofore celebrated, or which may hereafter be celebrated between parties within the degrees of consanguinity or affinity, forbidden by law, or where either of the parties were bound by a prior marriage, to a husband or wife, then alive. *a*

VIII. INSTEAD of the fees heretofore prescribed by law, any authorized minister may demand and receive in current money for the celebration of every marriage, the sum of one dollar. *a*

IX. IF any minister shall refuse to celebrate the rites of matrimony for the fees herein before allowed him, or shall exact other or greater fees; or if he or any parish reader or clerk, shall refuse to publish the banns, or to certify the same when required for the fee aforesaid, or exact any other or greater fee, every person so offending, shall forfeit and pay fifty dollars to the party grieved for every such offence, recoverable in any Court within this Commonwealth, by action of debt or information.

X. AND that a register of all marriages may be preserved; *Be it enacted*, that a certificate of every marriage hereafter solemnized, signed by the minister celebrating the same, or in the case of Quakers, Menonists, and other societies that solemnize their marriages by the consent of the parties taken in open congregation as aforesaid, by the clerk of the meeting, shall be by such minister or clerk, (as the case may be) transmitted to the Clerk of the County or Corporation, wherein the marriage is solemnized, within twelve months thereafter, to be entered on record by the Clerk, in a book by him to be kept for that purpose, which shall be evidence of all such marriages. The Clerk shall be entitled to demand and receive of the party so married, the sum of twenty-five cents for recording such certificate, and giving the bearer a receipt therefor. *a*

XI. EVERY minister or clerk of a congregation (as the case may be) failing to transmit such certificate to the Clerk of the Court in due time, shall forfeit and pay the sum of sixty dollars; and if the Clerk of any County shall fail to record such certificate, he shall forfeit and pay the like sum of sixty dollars, to be recovered with costs of suit, by the informer, in any Court of Record. *a*

XII. EVERY license for marriage shall be issued by the Clerk of the Court, of that County or Corporation wherein the *same* usually resides, in manner following, that is to say; the Clerk shall take bond, with good security, for the sum of one hundred and fifty dollars, payable to the Governor of the Commonwealth for the time being, and his successors, for the use of the Commonwealth, with condition that there is no lawful cause to obstruct the marriage for which the license shall be desired, and every Clerk failing herein, shall forfeit and pay one hundred and fifty dollars; and if either of the parties intending to marry shall be under the age of twenty-one years, and not theretofore married, the consent of the father or guardian of every such infant, shall be personally given before the said Clerk, or certified under the hand and seal of such father or guardian, attested by two witnesses, one of which witnesses shall personally appear

before the said Clerk, and make oath, or affirmation (as the case may require) that he saw the father or guardian, whose name is annexed to such certificate, subscribe or acknowledge the same; and thereupon the Clerk shall issue a license, and certify that bond is given, and every Clerk is hereby authorized to administer such oath, or affirmation, as aforesaid; and if the parties or either of them be under the age aforesaid, he shall also certify the consent of the father or guardian, and the manner thereof, to any justice sworn in the commission of the peace, who is hereby authorized and required to sign and direct the same: and every license so obtained and signed, and no other whatsoever, is hereby declared to be a lawful license; and if any County or Corporation Court Clerk shall in any other manner, issue or certify any marriage license, or if any person whatsoever shall presume to sign or direct such license, in other manner, or without such certificate, as is by this Act required, every person so offending, shall be imprisoned one whole year without bail or mainprize, and shall forfeit and pay fifteen hundred dollars, recoverable in any Court of record within this Commonwealth. *a*

Penalty for issuing or signing a license contrary to this act.

XIII. IF any person whatsoever since the eighth day of *December*, one thousand seven hundred and eighty-eight, hath, or at any time hereafter, shall marry within the following degrees, that is to say: If the son hath married, or shall marry his mother or step-mother, the brother his sister, the father his daughter, or his son's daughter, or his daughter's daughter, or if the son hath married, or shall marry the daughter of his father, begotten and born of his step-mother, or the son hath married or shall marry his aunt, being his father's or his mother's sister, or hath married or shall marry his uncle's wife, or the father hath married, or shall marry his son's wife, or the brother hath married, or shall marry his brother's wife, or any man hath married, or shall marry his wife's daughter, or his wife's son's daughter, or his wife's daughter's daughter, or his wife's sister, every person or persons so unlawfully married, shall be separated by the definitive sentence or judgment of the High Court of Chancery; and the Attorney General, upon any information made to him of any such marriage, shall, and may exhibit a bill to the Judge of the said Court, against any persons so unlawfully married, who shall be compelled upon oath to answer the same; and upon such bill and answer, and the depositions of witnesses, where the same shall be necessary, the said Court shall and may proceed to give judgment, and to declare the nullity of such marriage, and moreover may punish the parties by fine; and if the Court see fit, may cause the parties to give bond with sufficient security, that they will not cohabit hereafter, in such penalty as the said Court shall judge reasonable: *Provided always*, that no punishment by fine shall be imposed on any person until the same shall have been assessed by a jury, duly impannelled at the bar of the said Court. *And provided also*, that nothing herein contained, shall be construed to render illegitimate, the issue of any marriage so annulled. *b*

Marriages within certain degrees to be annulled, and the parties separated.

Duty of the Attorney-General, when informed of any such marriage.

XIV. IF any person or persons within this Commonwealth, being married, or who shall hereafter marry, do at any time after the commencement of this Act, marry any person or persons, the former husband or wife being alive, every such offence shall be felony, and the person or persons so offending, shall suffer death as in cases of felony; and the party and parties so offending, shall receive such and like proceeding, trial, and execution within this Commonwealth, as if the offence had been committed in the county where such person shall be taken or apprehended. *Provided*, that nothing herein contained, shall extend to any person or persons whose husband or wife shall be continually remaining beyond the seas by the space of seven years together, or whose husband or wife shall absent him or herself, the one from the other, by the space of seven years together, in any part within the United States of America or elsewhere, the one of them not knowing the other to be living within that time. *Provided also*, that nothing herein contained, shall extend to any person or persons, that are or shall be at the time of such marriage divorced by lawful authority, or to any person or persons where the former marriage hath been, or hereafter shall be by lawful authority, declared to be void and of no effect, nor to any person or persons for or by reason of any marriage had or made, or hereafter to be had or made within age of consent. *And provided also*, that no attainder for the offence made felony by this act, shall make or work any corruption of blood, or forfeiture of estate whatsoever. *b*

Felony to marry a second time, the former husband or wife being alive.

Proviso

(a) 1748, ch. 26, sec. 2.—Amended this session. (b) 1783, ch. 32, l. 34.

In what case a feme of 12 and under 14 years shall forfeit her inheritance by marrying.

XV. IF any *feme sole* of the age of twelve, and under fourteen[†] years, shall marry any person contrary to the will or consent of her father or guardian, and without legal publication of the banns, then the next of kin to such *feme*, to whom the inheritance should descend or come, shall have right to enter upon and take possession of all lands, tenements, hereditaments, and other real estate whatsoever, which such *feme*, at the time of her marriage had in possession, remainder, or reversion, and shall have, hold, occupy and enjoy the same to him or her, and the representatives of his or her stock, with all the immunities and privileges thereto belonging, during the time of such coverture; but after determination thereof, all such estate, and the possession, reversions and remainders, rights, immunities, and privileges, shall immediately revert, be, and remain in the said *feme*, and her heirs, other than her husband; and she and they, and every of them, may re-enter and take possession thereof, as if this act had never been made. *a*

Penalty for publishing banns, or marrying any servant without the master's consent.

XVI. IF any minister, clerk, or reader, shall wittingly publish the banns of marriage between any servants by act of Assembly, indenture or custom, or between any free person and such servant, or if any minister shall knowingly marry any such without certificate from the master or owner of every such servant, that it is with his or her consent, every minister, clerk, or reader, so offending, shall forfeit and pay two hundred and fifty dollars for every such offence, recoverable in any Court of Record of this Commonwealth; and every such servant, so married without consent of his or her master or owner, shall serve him or her, and his or her assigns, one whole year after all other time of service is expired, or pay him or her twenty dollars; and every free person so marrying such servant, shall pay the master or owner, twenty dollars for his or her own use, recoverable in any County or Corporation Court, with costs, or shall well and faithfully serve such master or owner one whole year in actual service. *b*

On servants marrying, and free persons marrying them.

Punishment of white persons marrying negroes or mulattoes.

XVII. AND for preventing white men and women intermarrying with negroes or mulattoes, *Be it enacted*, That whatsoever white man or woman, being free, shall intermarry with a negro or mulatto man or woman, bond or free, shall by judgment of the County Court, be committed to prison, and there remain six months, without bail or mainprize, and shall forfeit and pay thirty dollars, to the use of the parish. *c*

Penalty on minister marrying a white person to a negro or mulatto.

XVIII. NO minister or person whatsoever within this Commonwealth, shall hereafter presume to marry a white man with a negro or mulatto woman, or to marry a white woman with a negro or mulatto man, upon pain of forfeiting and paying for every such marriage, two hundred and fifty dollars, one half to the use of the Commonwealth, and the other half to the use of the informer; to be recovered with costs, by action of debt, bill, plaint, or information, in any Court of Record within this Commonwealth, wherein no essoin, protection, or wager of law, shall be allowed. *c*

Felony to take any woman unlawfully against her will.

XIX. AND whereas women, as well maidens as widows, and wives having substances, some in goods moveable, and some in lands and tenements, and some being heirs apparent unto their ancestors, for the lucre of such substances, have been often times taken by misdoers contrary to their will, and afterwards married to such misdoers, or to others by their consent, or deified: *Be it further enacted*, That whatsoever person or persons shall take any woman so against her will unlawfully, that is to say, maid, widow, or wife; such taking, and the procuring and abetting to the same, and also receiving wittingly the same woman so taken, against her will, shall be felony, and that such misdoers, takers, and procurers to the same, and receivers, knowing the said offence in form aforesaid, shall be reputed and judged as principal felons. *Provided always*, That this act shall not extend to any person taking any woman, only claiming her as his ward or bond-woman. *d*

Proviso.

Punishment for unlawfully taking a feme sole under 16 years from her father, mother, or others having the care of her.

XX. IF any person above the age of fourteen years, shall unlawfully take and convey away, or shall cause to be unlawfully taken or conveyed away, any maiden or woman-child unmarried, being within the age of sixteen years, out of, or from the possession, and against the will of the father or mother of such maiden or woman-child, or out of, or from the possession, and against the will of such person or persons as then shall happen to have by any lawful ways or means, the order, keeping, education or governance of any such maiden or woman-child, and being thereof duly convicted, shall suffer imprisonment, without bail

[†] Altered from 16 years. (a) From 1748, ch. 26, sec. 3. (b) 1748, ch. 26, sec. 4. (c) 1753, ch. 2, sec. 14. (d) 1789, ch. 8, sec. 1.

or mainprize, for any term not exceeding two years, as shall be adjudged against him. *a*

XXI. IF any person or persons shall so take away, or cause to be taken away, as is aforesaid, and deflower any such maid or woman-child, as is aforesaid, or shall, against the will or knowledge of the father of any such maid or woman-child, if the father be in life, or against the will or knowledge of the mother of any such maid or woman-child, having the custody and governance of such child, if the father be dead, by secret letters, messages or otherwise, contract matrimony with any such maiden or woman-child, every person so offending, and being thereof lawfully convicted, shall suffer imprisonment of his body, by the space of five years, without bail or mainprize. *a*

For deflowering or marrying any such feme so unlawfully taken.

XXII. ALL the fines which shall or may be imposed by virtue of so much of this act, as relates to incestuous marriages, shall be to the use of the poor of the county wherein the offence or offences shall be committed; and one moiety of all the forfeitures arising under this act, and not otherwise appropriated, shall be to the use of the Commonwealth, and the other moiety to the party or parties who shall sue for the same. *b*

Appropriation of fines.

XXIII. ALL and every other Act and Acts, and clause or clauses of Acts, for so much thereof as relates to any thing within the purview of this Act, (except as herein after provided) are hereby repealed, and made void. *Provided always*, that nothing in this Act contained, shall be construed to repeal an Act, intituled, "*An Act concerning incestuous marriages*," or one other Act, intituled, "*An Act for the punishment of the crime of Bigamy*," or one other Act, intituled, "*An Act against forcible and stolen marriages*," for so much of either of them as relates to any offence within the purview thereof, committed or done before the commencement of this Act; but the said recited Acts, as to all such offences shall be, and remain in full force in the same manner as if this Act had never been made.

Repealing clause.

Proviso.

XXIV. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act

CHAP. CV.

An Act to reduce into one, the several Acts concerning Mills, Mill-Dams, and other Obstructions of Water-Courses.

[Passed the 21st of December, 1792.]

I. **B**E it enacted by the General Assembly, That when any person owning lands on one side of any water-course, the bed whereof belongeth to himself, or to the commonwealth, and desiring to build a water grist-mill on such lands, and to erect a dam across the same for working the said mill, shall not himself have the fee simple property in the lands on the opposite side thereof, against which he would abut his dam, he shall make application for a writ of *ad quod damnum* to the Court of the County wherein the lands proposed for the abutment are, having given ten days previous notice to the proprietor thereof, if he be to be found in the County, and if not, then to his agent therein, if any he hath, which Court shall thereupon order their Clerk to issue such writ, to be directed to the Sheriff, commanding him to summon and impanel twelve fit persons, to meet upon the lands so proposed for the abutment, on a certain day to be named by the Court, and inserted in the said writ, of which notice shall be given by the Sheriff to the proprietor or his agent, as before directed, if neither of them were present in Court at the time of the order made. *c*

Method of proceeding where the person desirous of building a mill owns the land only on one side of the stream.

Notice to be given to the proprietor of the opposite land.

II. THE freeholders taken, shall be charged by the said Sheriff impartially and to the best of their skill and judgment, to view the said lands so proposed for an abutment, and to locate and circumscribe, by certain metes and bounds, one acre thereof, having due regard therein to the interests of both parties, and to appraise the same, according to its true value; to examine the lands above and below, of the property of others, which may probably be overflowed, and say to what damage it will be of to the several proprietors, and whether the mansion-house of any such proprietor, or the offices, curtilage, or garden thereunto immediately belonging, or orchards, will be overflowed; to enquire whether, and in what degree fish of passage and ordinary navigation will be obstructed; whether by any, and by what means such obstruction may

Charge to the Jury.

(a) 1789, *ch. 8, sec. 2, 3.* (b) 1788, *ch. 32.* (c) 1785, *ch. 82, sec. 1.*

On return of the inquest, the persons concerned to be summoned.

Where the lands on both sides belong to the person intending to build a mill.

In what cases the court shall not give leave to build mills.

Where they may at their discretion.

Party obtaining leave to pay the value of the land and the damages to the persons intitled thereto. To begin and finish his mill within certain periods.

Actions, for damages not estimated by the jury, not barred by the inquest.

How owners of mills may obtain leave to raise their dams.

Duty of millers. Toll.

Penalty for not grinding well and in due time, or for taking more than legal toll

Millers to keep sealed measures and toll dishes.

be prevented; and whether, in their opinion the health of the neighbours will be annoyed by the stagnation of the waters. *a*

III. THE inquest so made and sealed by the said jurors, together with the writ, shall be returned by the said Sheriff to the succeeding Court, who shall thereupon order summonses to be issued to the several persons, proprietors, or tenants of the lands so located or found liable to damage, if they be to be found within the County, and if not, then to their agents therein, if any they have, to shew cause why the party applying should not have leave to build the said mill and dam. *a*

IV. IN like manner, if the person proposing to build such mill and dam, shall have the fee-simple property in the lands on both sides the stream, yet application shall be made to the Court of the County wherein the mill-house will stand, for a like writ; which writ shall be directed, executed and returned, as prescribed in the former case. *a*

V. IF on such inquest, or on other evidence, it shall appear to the Court that the mansion-house of any proprietor, or the offices, curtilage, or garden thereto immediately belonging, or orchards, will be overflowed, or the health of the neighbours be annoyed, they shall not give leave to build the said mill and dam; but if none of these injuries are like to ensue, they shall then proceed to consider whether, all circumstances weighed, it be reasonable that such leave should be given, and shall give, or not give it accordingly; and if given, they shall lay the party applying, under such conditions for preventing the obstruction, if any there will be, of fish of passage, and ordinary navigation, as to them shall seem right. *a*

VI. IF the party applying, obtain leave to build the said mill and dam, he shall, upon paying respectively to the several parties entitled, the value of the acre located, and the damages which the jurors find will be done by overflowing the lands above or below, become seized in fee-simple of the said acre of land. But if he shall not within one year thereafter, begin to build the said mill, and finish the same within three years, and afterwards continue it in good repair for public use, or in case the said mill or dam be destroyed, if he shall not begin to rebuild it within one year after such destruction, and finish it within three years, the said acre of land shall revert to the former proprietor and his heirs; unless at the time of such destruction of the said mill or dam, the owner thereof be an infant, *feme covert*, imprisoned, or of unsound mind; in which case, he shall be allowed the same terms for beginning and completing the said mill or dam, after such disability removed. *a*

VII. THE inquest of the said Jurors, nevertheless, or opinion of the Court, shall not bar any prosecution or action which any person would have had in law had this act never been made, other than for such injuries as were actually foreseen and estimated by the said jury. *a*

VIII. WHEN any owner of a mill heretofore or hereafter established by law, may think it necessary to raise his dam, the Court of the County wherein the pond lieth, upon application to them, shall grant a second writ of *ad quod damnum*, to value the additional damage done thereby, under the same rules and regulations as are herein before directed.

IX. ALL millers shall well and sufficiently grind the grain brought to their mills, and in due turn as the same shall be brought, and may take for the toll one eighth part, and no more, of all grain, of which the remaining part shall be ground into meal; and one sixteenth part, and no more, of that, the remainder of which shall be ground into homminy or malt. And every miller or occupier of a mill, who shall not well and sufficiently grind as aforesaid, or not in due time as the same shall be brought, or take or exact more toll, shall, for every such offence, forfeit and pay two dollars and fifty cents to the party injured, recoverable with costs, before a Justice of Peace of the County where such offence shall be committed. And where the miller shall be an indented servant, or slave, he shall, upon the first conviction for such offence, receive thirty lashes; and upon a second conviction, fifty lashes, on his bare back, well laid on, in lieu of the forfeiture aforesaid; but upon a third conviction, his master or owner shall be liable to pay two dollars and fifty cents, and so for every such offence by such servant or slave afterwards committed: *Provided*, That every owner or occupier of a mill, may grind his or her own grain at any time. *b*

X. EVERY owner or occupier of a mill, shall keep therein sealed measures of half bushel and peck, and a toll dish sealed, and shall measure all grain by

strike measure, under the penalty of paying two dollars and fifty cents for every such failure; recoverable with costs, before a Justice of the Peace for the County wherein such mill shall be, to the use of the informer. And if the miller be a slave or servant, his master or owner shall be liable to the penalty; or if the owner of such mill shall not live within the same County, nor have any known attorney therein, the appearance of such servant or slave before the Justice to whom such complaint shall be made, shall be sufficient for him to proceed against the master or owner, but if he, or she, his, or her known attorney lives in the County, his, or her appearance shall be required. *a*

XI. NO owner or tenant of any mill, not having fifty acres of land adjoining thereto, shall keep any swine uninclosed at such mill, on pain that the same shall be liable to be taken and converted to his own use by the proprietor or tenant of any adjacent lands, or by any other person authorized by them. *b*

XII. THE owner or occupier of every dam over which a public road passes, shall constantly keep such dam in repair, at least twelve feet wide at the top through the whole length thereof, and shall keep and maintain a bridge of the like breadth with strong rails on each side thereof over the pier head, flood gates, or any waste, cut through or round the dam, under the penalty of one dollar and sixty-seven cents for every twenty-four hours failure, but where a mill dam shall be carried away, or destroyed by tempest, or accident, the owner or occupier thereof, shall not be liable to the said penalties from thenceforth until one month after such mill shall have been so repaired as to have ground one bushel of grain. *c*

XIII. WHERE the owner of any mill now standing, or licensed to be built, hath by any act of Assembly been compelled to make locks, slopes, or opening for navigation or the passage for fish, the same shall be continued under the conditions imposed by such act, and shall be deemed sufficient in law, so long as the dam now standing or building shall remain: But it shall not be lawful to rebuild such dam in future, but on enquiry by jury into the obstructions of fish and navigation, and the means of preventing the same, and the final order of the Court, to be applied for, and conducted in the manner before directed in other cases. *d*

XIV. IT shall not be lawful for any person to erect or fix on any water course, any dam, hedge, weir, seine, drag, or other stoppage, whereby navigation or the passage of fish may be obstructed, save only for the purpose of working some machine or engine, useful to the public, in which cases the same proceedings shall be had, as are before directed in the case of a water grist mill, or for the purpose of a water grist mill, before provided for. And where any such are now standing, or shall hereafter be erected or fixed, the owner or tenant of the lands adjacent thereto (whether the same were erected or fixed by himself or another) shall cause it to be abated. And whoso offendeth herein, shall be deemed guilty of a nuisance. *d*

XV. AND whereas many of the rivers and creeks of this commonwealth are stopped and choaked by stones, trees, stumps and rubbish therein, and by hedges, weirs, or stone stops, in or across the same, whereby the passage of boats and other vessels, and of fish, is obstructed, to the great damage of the inhabitants of this commonwealth, and the hindrance of trade and commerce; *Be it therefore enacted*, that where any river or creek shall be in one county only, the court of such county shall be, and is hereby empowered and required, to contract and agree with any person or persons they shall think fit to clear the same, as far as it shall be passable for loaded boats, if such obstructions were removed, and to levy so much money in their county levy as shall be sufficient to discharge such agreement; and where any river or creek in this commonwealth shall divide two or more counties, the courts of every such county shall join in such agreement, and levy the charge thereof in proportion to the number of tithables in each county: *Provided always*, that nothing herein contained shall be construed to oblige any county court or courts to contract for removing rocks, or such obstructions, in any river or creek, as cannot be removed without the force of gun-powder: *And provided also*, that the courts of the counties adjoining to the rivers Meherrin, Nottoway, Roanoke and Rappahannock, above the falls thereof, shall not be obliged by this act to contract for the clearing the said rivers or any of them. *e*

When they shall not keep hogs at large at their mills.

Their duty where public roads pass over their dams.

Regulation respecting locks and slopes in the dams of mills already built.

Navigation, or the passage of fish not to be obstructed by dams, hedges, &c. without leave as in the case of mills.

County courts may contract for clearing rivers and creeks of certain obstructions to navigation, &c.

Not to extend to obstructions removable only by the force of gun-powder. Certain rivers excepted.

(a) 1748, ch. 20, sec. 10. (b) 1735, ch. 82, sec. 5. (c) 1785, ch. 75, sec. 11. (d) 1785, ch. 82, sec. 6. (e) 1743, ch. 23, sec. 1, 2. See act of 1800, ch. 7, amending this clause.

Penalty for felling trees into rivers or creeks.

XVI. WHOSOEVER shall fell any tree or trees, or cause the same to be felled into any river or creek, or any run whereon there is or shall be erected any public bridge or bridges within this commonwealth, and shall not cut and carry away the same within the space of forty-eight hours after such felling, shall forfeit and pay two dollars and fifty cents for every tree so felled and not cut and carried away, to be recovered before a Justice of the Peace of the county where such offence shall be committed, and shall be to the use of the informer. *a*

Repealing clause.

XVII. ALL and every Act and Acts, clause and clauses of Acts containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

Commencement of this Act.

XVIII. THIS Act shall commence and be in force, from the passing thereof.

CHAP. CVI.

An Act to reduce into one, the several Acts for regulating the Inoculation of the Small-Pox within this Commonwealth.

[Passed the 21st of December, 1792.]

Penalty for importing matter to inoculate for the small pox.

I. **B**E it enacted by the General Assembly, That if any person or persons whatsoever, shall wilfully or designedly presume to import or bring into this Commonwealth, from any country or place whatever, the small-pox, or any variolous or infectious matter of the said distemper, with a purpose to inoculate any person or persons whatever, or by any means to propagate the said distemper within this Commonwealth, he or she so offending, shall forfeit and pay the sum of three thousand dollars for every offence so committed; one moiety whereof shall be to the informer, and the other moiety to the overseers of the poor of the County, where the offence shall be committed, for the use of the poor of the said County, to be recovered with costs, by action of debt, bill, plaint, or information, in any court of record within this Commonwealth. *b*

II. BUT for as much as the inoculation for the small-pox may, under peculiar circumstances, be not only a prudent, but necessary means of securing those who are unavoidably exposed to the danger of taking the distemper in the natural way, and for this reason it is judged proper to tolerate it, under reasonable restrictions and regulations. *c*

License to inoculate may be granted by the magistrates of the county or corporation.

III. *BE it therefore enacted*, That if any person shall think him or herself, his, or her family exposed to the immediate danger of catching the said distemper, such person may give notice thereof to the Sheriff of any County, or to the Mayor or Chief Magistrate of any City or Corporation; and the said Sheriff, Mayor, or Chief Magistrate shall immediately, and without loss of time, summon all the acting Magistrates of the said County, City, or Borough, to meet at the most convenient time and place in the said County, City or Borough, and the said Magistrates, or such of them as shall be present, being assembled, shall consider whether, upon the whole circumstances of the case, inoculation may be prudent or necessary, or dangerous to the health and safety of the neighbourhood; and thereupon either grant a license for such inoculation, under such restrictions and regulations as they shall judge necessary and proper, or prohibit the same, as to them, or a majority of them, shall seem expedient; or any person having first obtained in writing (to be attested by two witnesses) the consent of a majority of the house-keepers residing within two miles, and not separated by a river, creek, or marsh, a quarter of a mile wide, and conforming to the following rules and regulations, may inoculate, or be inoculated for the small-pox, either in his, or her own house, or at any other place. *d*

Or by the house keepers residing within a certain distance.

Under certain rules and regulations for confining the infection, and penalties for transgressing them.

IV. NO patient in the small-pox shall remove from the house where he or she shall have the distemper, or shall go abroad into the company of any person who hath not before had the small-pox, or been inoculated, or go into any public road where travellers usually pass, without retiring out of the same, or giving notice upon the approach of any passenger, until such patient hath recovered from the distemper, and hath been so well cleansed in his or her person and

(a) 1748, ch. 23, sec. 3. (b) 1769, ch. 25. (c) *Ib.* sec. 2. (d) 1777, ch. 5, sec. 2.

cloaths, as to be perfectly free from infection, under the penalty of seven dollars for every offence, to be recovered, if committed by a married woman, from her husband; if an infant, from the parent or guardian; and if a servant, or slave, from the master or mistress. *a*

V. EVERY physician, doctor, or other person undertaking inoculation at any house, shall cause a written advertisement to be put up at the nearest public road, or other most notorious adjacent place, giving information, that the small-pox is at such house, and shall continue to keep the same set up so long as the distemper or any danger of infection remains there, under the penalty of seven dollars for every day that the same shall be omitted or neglected, to be paid by the physician or doctor, if the offence shall be committed when he is present, or by the master, mistress, manager, or principal person of the family, respectively, if the offence is committed in the absence of the physician or doctor. Every physician, doctor, or other person undertaking inoculation at any public place, or hospital, for the reception of patients, shall, before he discharges the patients, or suffers them to be removed from thence, take due care that their persons and cloaths are sufficiently cleansed, and shall give such patients, respectively, a certificate under his hand, that in his opinion they are free from all danger of spreading the infection, under the penalty of ten dollars for every offence; and every person wilfully giving a false certificate, shall be subject to the penalty of thirty dollars. *a*

VI. IF any person who hath not had the small-pox, other than those who have been, or intend to be inoculated, shall go into any house where the small-pox then is, or intermix with the patients and return from thence, any Justice of the Peace for the County or Corporation, on due proof thereof, may by warrant cause such person to be conveyed to the next hospital where the small-pox is, there to remain until he or she shall have gone through the distemper, or until the physician or manager of the hospital shall certify that in his opinion such person cannot take the same, and if such person be not able to pay the necessary expenses, the same shall be paid by the County. *a*

VII. AND whereas checking the progress of the said distemper, where it may accidentally break out, or the regulations which may be established for carrying on inoculation, may be attended with some expense, it shall and may be lawful for the Justices of every County, at the time of laying their levy, and for the Mayor, Recorder, Aldermen, and Common-Council of any City or Borough, at such time as they shall judge most convenient, to levy on the titable persons in their said County, City, or Borough, so much money as will be sufficient to defray the expenses necessarily incurred for the purposes aforesaid, in any such County, City, or Borough. *b*

VIII. IF any Sheriff, Mayor, or Chief Magistrate, shall, upon application to him made, in manner aforesaid, refuse, or unreasonably delay to summon the Magistrates of any County, City, or Borough, for the purpose aforesaid, or if any Magistrate so summoned, shall refuse or neglect to attend, according to such summons, every such Sheriff, Mayor, or Chief Magistrate, shall forfeit the sum of three hundred dollars upon his refusing or neglecting to give such notice without reasonable excuse; and every other Magistrate so refusing or neglecting, without reasonable excuse, shall also forfeit and pay the sum of twenty dollars to the person aggrieved. *b*

IX. IF any person or persons shall inoculate or procure inoculation for the small-pox, to be performed within this Commonwealth, without obtaining a license or consent to inoculate in the manner herein before directed, or shall not conform to the rules and regulations prescribed by such justices, he, she, or they shall forfeit and pay respectively, for every such offence, the sum of three hundred dollars; one moiety whereof shall be to the informer, and the other moiety to the overseers of the poor of the County wherein such offence shall be committed, for the use of the poor of the said County; to be recovered with costs, by action of debt, bill, plaint, or information, in any Court of Record within this Commonwealth; and moreover it shall and may be lawful for any Justice of the Peace, upon information given to him upon oath, to issue his warrant against any person so offending, and upon sufficient proof before him made, to cause such offender to give security in such reasonable penalty as such Justice shall think fit, for his or her good behaviour, and upon failure to give such security, to commit him or her to the Jail of his County or Corporation,

Expenses incurred in checking the distemper or carrying on inoculation, how to be defrayed.

Penalty on the sheriffs and magistrates for neglect of the duties hereby enjoined.

Penalty for inoculating without license, &c.

(a) Oct. 1777, ch. 5, sec. 2, 3, 4. (b) 1769, ch. 26, sec. 5.

Unless some person of the family has caught the infection in the natural way.

Penalty for propagating the small-pox contrary to this act.

Penalties, how recoverable and how appropriated.

Repealing clause.

Commencement of this act.

there to be confined until such security be given: *Provided nevertheless*, that no person shall incur the penalties imposed by this act for inoculating his family without conforming to the rules herein prescribed, if any person of such family shall have before taken the infection in the natural way; nor shall any patient in the small-pox be compelled to remove from his usual place of residence.

X. EVERY person wilfully endeavoring to spread or propagate the small-pox, without inoculation, or by inoculation, in any other manner than is allowed by this act in special cases, shall be subject to the penalty of fifteen hundred dollars, or suffer six months imprisonment without bail or mainprize. *a*

XI. ALL the penalties inflicted by this act, may be recovered with costs, by action of debt, or information, in any Court of Record, where the sum exceeds twenty dollars, and where it is under, or amounts to that sum only, by petition in the Court of the County where the offence shall be committed; and where they are not hereby appropriated otherwise, shall be one half to the informer, and the other half to the Commonwealth, or the whole to the Commonwealth, where prosecution shall be first instituted on the public behalf alone.

XII. ALL acts, and so much of any act of General Assembly, as contains any thing contrary to this act, is hereby repealed.

XIII. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CVII.

An Act for regulating Ordinaries, and restraint of Tippling Houses.

[Passed the 26th of December, 1792.]

Ordinary licenses how to be obtained.

Ordinary keeper to give bond and security.

Condition of the bond.

Rates for liquors, diet, &c. to be fixed by the county courts;

I. **B**E it enacted by the General Assembly, That every person intending to set up or keep an ordinary, or house of public entertainment, shall first petition the court of that county wherein such ordinary is intended to be, and obtain a license for keeping the same; and the justices of the court to whom such petition shall be exhibited, shall thereupon consider the convenience of the place proposed, and the ability of the petitioner to provide and keep good and sufficient houses, lodging and entertainment for travellers, their servants and horses; but the court shall not, under pretence of keeping any poor person from being chargeable to the parish, license any such person to sell liquors to the prejudice of the neighbouring inhabitants; and if such petition shall appear reasonable, such court is hereby authorised, and may, if they think fit, grant the petitioner a license to keep an ordinary, for the term of one year next ensuing the date of such license, and from thence till the next court held for the said county, and no longer; which license shall be signed by the first justice sworn in the commission of the peace for such county, and may, upon petition be renewed from year to year, if the court shall think fit. *b*

II. *PROVIDED* always, That before issuing such license, the petitioner shall enter into bond, with sufficient security, to the effect following:

KNOW all men, by these presents, That we A. B. and C. D. are beld and firmly bound to _____, Governor of the Commonwealth of Virginia, in the sum of one hundred and fifty dollars; to which payment, well and truly to be made, to the said _____, or his successors, we bind ourselves, and every of us, our and every of our heirs, executors and administrators, jointly and severally, by these presents. Witness our hands and seals, this _____ day of _____ in the year one thousand _____ hundred and _____

*THE condition of the above obligation is such, that whereas the above bound A. B. hath obtained a license to keep an ordinary at _____ in the county of _____, if therefore the said A. B. doth constantly find and provide in his said ordinary, good, wholesome and cleanly lodging and diet for travellers, and stableage, fodder and provender, or pasturage and provender as the said _____ shall require, for their horses, for and during the term of one year from the day of the date of these presents, and from thence till the next court held for the said county of _____, and shall not suffer or permit any unlawful gaming in his house, nor on the Sabbath day suffer any person to tipple and drink more than is necessary, then this obligation to be void, otherwise to remain in full force. *b**

III. THE justices of every county court within this commonwealth shall, at their March court, or at any other court, set the rates and prices to be paid at all ordinaries within their respective counties, for liquors, diet, lodging, pro-

vender, stableage, fodder and pasturage, and may increase or lessen the rates as often as they shall see cause, but shall not fail to fix the rates at least twice in a year, under the penalty of fifteen dollars, on every member of such court so failing; and every ordinary keeper shall within one month after the rates so set, or from time to time altered, set up a copy of the rates aforesaid, attested by the clerk of the court, in some public entertaining room in his tavern, to be placed not more than six feet above the floor, and so long as he neglects this after the month, he shall have no right to demand any price for a rated article, and moreover be subject to a penalty of seven dollars. And if any ordinary keeper shall demand and take greater price for any drink, diet, lodging, provender, stableage, fodder, or pasturage, than by such rates shall be allowed, he or she so offending, shall forfeit and pay twelve dollars for every such offence to the informer, recoverable with costs before a justice of the peace of the county wherein such ordinary shall be. And the penalty on each member of the court failing to fix the rates, and on the tavern keeper for not setting up a table of the same, shall be recoverable by action of debt or information, by any person who will sue for the same, in any court of record within this commonwealth. *a*

and tables thereof to be set up by the ordinary keepers

Penalty on them for taking more than the legal rates.

IV. IF any person without such license, shall open a tavern, or sell by retail, wine, beer, cyder, rum or brandy, or other spirituous liquors, or a mixture thereof, to be drank in, or at the place where it shall be sold, or in any booth, arbor, or stall, such offence shall be deemed a breach of good behaviour, and he or she so offending, shall moreover forfeit and pay the sum of thirty dollars, to be applied towards lessening the county levy. *b*

Penalty for opening tavern or retailing liquors without license, for the first offence.

V. EVERY person having been convicted of keeping a tippling house, or retailing liquors as aforesaid, who shall afterwards be guilty of the same offence, and be thereof again convicted, shall by the court before whom such conviction shall be had, be committed to prison, there to remain for and during the term of six months, without bail or mainprize. *c*

For the second offence.

VI. THE presiding justice present shall give this act in special charge to the grand jury of the county, at every grand jury court; and whenever any prosecution or suit shall be instituted thereupon, the court before whom the same shall be depending, shall proceed to speedy trial thereof, out of course, and without delay. *c*

This act to be given in charge to grand juries in county courts.

VII. AND every justice of the peace is hereby required and strictly enjoined to cause this act to be put in strict execution within his county. And if any justice, either from information, his own knowledge, or other just cause, shall suspect any person of keeping a tippling house, or retailing liquors, as aforesaid, he is hereby empowered and required, to summon such person to appear before him, together with such witnesses as he may judge necessary; and upon the person's appearing, or failing to appear, if the justice, upon examining the witnesses upon oath, shall find sufficient cause, he may, and is hereby required to direct the attorney for the commonwealth in such county, to institute a prosecution against such person on the public behalf; which such attorney is hereby required to institute accordingly. And such justice may also cause the person so suspected, to give bond with two sufficient securities, for his or her good behaviour, for the term of one year, the principal in the sum of one hundred and fifty dollars and the securities in the sum of seventy-five dollars each; and upon failing to give such bond and security within three days, after being thereto required, such person may be committed to the jail of the county, there to remain until he or she shall give bond and security accordingly; and if such person shall afterwards during the said term, keep a tippling house, or retail liquors, as aforesaid, the same shall be, and is hereby declared a breach of the good behaviour, and of the condition of such bond. *c*

And to be put in execution by every justice of the peace.

VIII. *PROVIDED* always, That nothing in this act shall extend or be construed to prohibit any person or persons from retailing such liquors as shall actually have been made from the produce of such person's own estate, or brewed or distilled by him, her, or them, or those in his, her, or their employ; nor to prohibit any merchant or person keeping store for the sale of merchandize, from retailing liquors, so as such liquors be not drank, or intended to be drank at the house or plantation where the same shall be sold. And in case any dispute shall arise as to the making such liquors, the burthen of proof shall be on the defendant. *c*

Proviso in favor of brewers and distillers.

(a) 22, Geo. 2, ch. 24, sec. 3. O.S. '79, ch. 13, sec. 4. '85, ch. 74. (b) 22, Geo. 2, ch. 24, sec. 4. (c) O.S. '79, ch. 13, sec. 2.

Penalties on ordinary keepers suffering gaming in their houses.

IX. IF guests or others play at any game contrary to law in a tavern, or in any out-house, or under any booth, arbor, or other place upon the messuage, or tenement in possession of any tavern keeper, and the keeper thereof shall not endeavor to hinder them, and if they persist, to give information of the offence, and to give in the names of the offenders, within one month thereafter to the court, or to two justices of the peace, his license shall be revoked by the court, and he shall pay to the informer twenty dollars, unless being summoned to shew cause to the contrary, he appear and prove such facts, as induce them to believe, not only he did not know of, but moreover, that he had no reason to suspect such playing. *a*

Or tippling on the sabbath day,

X. IF the keeper of any ordinary or tavern, shall in his house, suffer any person to tipple or drink more than is necessary, on the Lord's day, or on any other day set apart by public authority for religious worship, or shall harbour or entertain any seaman, contrary to law, such tavern keeper shall be deprived of his license in the same manner. *b*

Tavern keepers not to sell liquor on credit to sailors.

XI. IF any keeper of a tavern or ordinary, shall sell drink to any sailor in actual pay on board any ship, on credit, he or she shall not recover any money, tobacco, or other commodity, for liquors so sold upon credit, but every such debt, obligation or specialty, shall be void: and if any warrant, petition, writ, or bill be prosecuted or exhibited against any person for the same, such warrant, petition, writ or bill, shall be dismissed, and the defendant shall have double costs. *b*

Penalty for so doing, or for harbouring sailors.

XII. IF any ordinary keeper shall sell any liquor whatsoever upon credit, to any sailor in actual pay on board any ship or other vessel, or shall harbour, entertain, or sell drink to any such sailor, without license from the master of the vessel or ship, to which the sailor belongs, such ordinary keeper shall for every such offence, forfeit and pay two dollars to the master of the ship or vessel, recoverable with costs, before any justice of the peace of the county, wherein such ordinary keeper lives. *b*

In what cases debts for retailed liquors shall be void.

XIII. NO keeper of a tavern shall recover more than five dollars for liquor sold within the space of a year to one person, residing less than twenty miles from such tavern, and drank, or sold to be drank, in the place where it is kept; and a written contract, or bond, or other specialty for payment, delivery, or security of money or other thing, for performance of any work or service, whereof the whole, or any part, shall have become due for liquors so sold, shall be void. *c*

Corporation courts to have the sole power of granting licenses within their jurisdictions.

XIV. THE several corporation courts within this commonwealth, shall have the sole power of granting or revoking licenses to ordinary keepers, within their respective jurisdictions: *Provided*, That such licenses be granted in the manner above directed by this act. *†*

Penalties, how recoverable and appropriated.

XV. ALL the penalties and forfeitures by this act given or laid, and not herein before appropriated, shall be, one moiety to the use of the commonwealth, and the other to the informer, to be recovered with costs, in any court of record within this commonwealth. *d*

Proviso.

XVI. EVERY act of Assembly, concerning any thing within the purview of this act, shall be, and the same is hereby repealed. *Provided always*, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Commencement of this Act.

XVII. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CVIII.

An Act reducing into one, the several Acts for unlading Ballast, and Burial of Dead Bodies from on board Ships; and prohibiting the putting Sick or disabled Seamen and Servants on Shore, without providing for their Maintenance.

[Passed the 23d of December, 1792.]

Ballast masters how to be appointed.

I. **B**E it enacted by the General Assembly, That the court of every county or corporation adjacent to any navigable river or creek, shall from time

(a) 1785, ch. 74. (b) 22, Geo. 2, ch. 24, sec. 2, 7, 8. (c) 1785, ch. 74. *†* By 22, Geo. 2, ch. 24, sec. 11, this power was given to the Court of Hustings of Williamsburg only; this sess. it was extended to all corporate courts. (d) 22, Geo. 2, ch. 24, sec. 9.

to time as vacancies happen, appoint one or more ballast masters, residing near the places where vessels usually ride in such river or creek, to be overseers and directors of the delivery and unloading of ballast from on board any ship or vessel, within a certain district to be by them ascertained. *a*

II. EVERY person so appointed, shall make oath in open court, that he will when required, diligently attend the delivery of ballast from on board any vessel within his district, and will not knowingly permit the same, or any part thereof, to be cast into the water where navigable, but will direct, and to the best of his power, cause all such ballast to be brought and laid on shore at some convenient place or places, where it may not obstruct navigation, nor be washed into the channel; and, that he will truly and faithfully execute his office, without favor, partiality, or malice. *b*

How qualified.]

III. IF any person so appointed, and having notice thereof by an attested copy of such appointment, issued by the clerk, and served by the sheriff or other officer, which notice the clerk is hereby directed immediately to issue, and the sheriff or other officer to serve, and thereupon make due return to the next court, shall fail to appear before the said court, unless hindered by sickness or other legal disability, or being there, shall refuse to be sworn, he shall be fined sixty dollars; and the court shall upon every such failure or refusal, or in case of death, removal, or other legal disability of any person so appointed, proceed to appoint another in his room. *c*

Penalty for failing or refusing to qualify and act.

Vacancies, how to be supplied.

IV. EVERY ballast master so appointed, upon receiving notice from the master or chief officer on board of any ship or vessel within his district, that ballast is to be discharged from such vessel, shall go on board the same, and attend until the whole ballast is delivered, which he shall see brought on shore, and laid at some convenient place near the vessel, where it may not obstruct navigation, nor be washed into the channel, shall thereupon give such master or officer, a certificate that the ballast has been duly unladen from on board such ship or vessel, and shall receive from him for the services so performed, eighty-three cents per day. *d*

Their duties.

V. EVERY ballast master failing to do his duty according to this Act, shall forfeit sixty dollars for each default. *d*

Penalty for neglect.

VI. EVERY master or chief officer of any ship or vessel having ballast to unlade, shall give notice in writing, of the time he proposes to land the same, to the ballast master of the district; and if he shall presume to land or cast overboard any ballast therefrom, without giving such notice, or contrary to the orders he shall receive from the ballast master of the district, he shall forfeit one hundred and fifty dollars for every such offence or failure. *d*

Duty of masters of vessels intending to unlade ballast.

VII. WHEN any person shall die on board of any ship or vessel within this commonwealth, the master thereof shall cause the dead body to be brought on shore, and there buried, at least four feet deep above high-water mark, or be subject to the like penalty of one hundred and fifty dollars. *d*

Dead bodies from on board ships how to be buried.

VIII. IF any suit be brought for the penalties in this act before contained, the defendant may be ruled to give special bail, and the clerk shall endorse on the writ, that bail is required. *d*

Defendants in suits for penalties to be held to bail.

IX. IF any master or commander of any ship or vessel, shall discharge, or cause to be put on shore, any sick or disabled sailor or sailors, belonging to his ship or vessel, not entitled to his or their discharge by the contract between them, or any servant, without taking due care for his or their maintenance and cure, he shall forfeit and pay sixty dollars to the overseers of the poor of the county or corporation wherein such sailor or sailors, or servant, shall be put on shore, to be recovered with costs, by action of debt or information, in any county or corporation court, and applied towards lessening the poor rates of the county or corporation; and he shall also be liable to the action of the overseers of the poor of that or any other county or corporation wherein such sailor or sailors, or servant, shall become chargeable, for all expenses of maintenance and cure; and in any such action or actions, the defendant may be ruled to give special bail, and the clerk shall endorse on the writ, that good bail is required: *Provided*, That the said overseers of the poor, or either of them, shall make affidavit of the cause of action, before a magistrate, which shall be certified to the clerk of the court who shall issue the writ. *e*

Penalty on masters of vessels putting sick or disabled sailors on shore.

Defendants to be held to bail.

(a) 1785, ch. 96, sec. 1. (b) May 1783, ch. 21, sec. 7. (c) 1748, ch. 29, sec. 13. (d) 1785, ch. 76, sec. 2, 3, 4, 5. (e) 1748, ch. 12, sec. 7. 1785, ch. 59. 1772, ch. 10.

Repealing clause.

Proviso.

Commencement of this Act

X. ALL and every Act, clause and clauses of Acts, within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, That nothing in this Act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

XI. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. CIX.

An Act to prevent the malicious burning any House; for taking away Clergy from certain Offences; and for punishing Accessaries to Felonies, and Receivers of stolen Goods.

[Passed the 26th of December, 1792.]

Felony without benefit of clergy to burn any house.

I. **BE** it enacted by the General Assembly, That all and every person and persons, that shall at any time, either in the night or the day, maliciously, unlawfully and willingly, burn any house or houses whatsoever, or shall comfort, aid, abet, assist, counsel, hire, or command, any person or persons to commit any of the said offences, being thereof convicted or attainted, or being indicted thereof, shall stand mute, or will not answer directly to the indictment, or shall peremptorily challenge above the number of twenty persons returned to be of the jury, shall be adjudged a felon, and shall suffer death as in case of felony, and shall not have the benefit of his, her, or their clergy. *a*

Benefit of clergy not to be allowed to those who feloniously break any store or warehouse and take therefrom money, or goods of the value of four dollars.

II. ALL and every person and persons, that shall at any time, either in the night or the day, feloniously break any warehouse or storehouse, and shall take therefrom any money, goods or chattels, wares or merchandizes, of the value of four dollars or more, although the owner of such goods, or any other person or persons, be, or be not in such warehouse or storehouse, or shall aid, assist, counsel, hire, or command any person or persons so to break and rob any such warehouse or storehouse, and shall be thereof convicted or attainted, or being thereof indicted, shall stand mute, or will not answer directly to the indictment, or shall peremptorily challenge above the number of twenty persons returned to be of the jury, shall, by virtue of this act, be absolutely debarred of, and from the benefit of clergy. *a*

When accessaries in felonies shall be prosecuted in the same manner as if the principals had been attainted.

III. IF any principal offender shall be convicted of any felony, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to be of the jury, it shall and may be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall be admitted to the benefit of his clergy, pardoned, or otherwise delivered, before attainer; and every such accessory shall suffer the same punishment, if he or she be convicted, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to be of the jury, as he or she should have suffered if the principal had been attainted. *a*

Receivers of stolen goods may be punished as for misdemeanors although the principals be not convicted.

IV. IT shall and may be lawful to prosecute and punish every such person and persons buying or receiving any stolen goods, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, although the principal felon be not before convicted of the said felony, which shall exempt the offender from being punished as accessory, if the principal shall be afterwards convicted. *a*

Repealing clause.

Proviso.

V. ALL and every Act and Acts, clause and clauses of Acts, containing any thing within the purview of this Act, (except as herein after provided) shall be, and the same are hereby repealed. *Provided always*, That nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

Commencement of this Act.

VI. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. CX.

An Act declaring who shall be deemed Citizens of this Commonwealth, and pointing out the Mode by which the Right of Citizenship may be acquired or relinquished.†

[Passed the 23d of December, 1792.]

I. **B**E it enacted by the General Assembly, That all free persons born within the territory of this commonwealth, all persons not being natives, who have obtained a right to citizenship under former laws, and also all children wheresoever born, whose fathers or mothers are or were citizens at the time of the birth of such children, shall be deemed citizens of this commonwealth, until they relinquish that character in manner hereinafter mentioned. *a*

Who shall be deemed citizens.

II. AND that all persons, other than alien enemies, who shall migrate into this state, and shall before some court of record give satisfactory proof by oath, or being Quakers or Menonists, by affirmation, that they intend to reside therein, and also take the legal oath or affirmation for giving assurance of fidelity to the commonwealth, (which oaths or affirmations the clerk of the court shall enter of record, and give a certificate thereof to the person taking the same, and shall on or before the first day of *October* annually, transmit to the Executive a list of the persons who shall have taken the said oaths or affirmations, reciting their nation and occupation, (if any) to be by them entered in a book to be kept for that purpose, for which he shall receive the fee of one dollar,) shall be entitled to all the rights, privileges, and advantages of citizens, except that they shall not be capable of election or appointment to any office, legislative, executive, or judiciary, until an actual residence in the state for five years after the time of taking such oaths or affirmations, *afore said*; nor until they shall have evinced a permanent attachment to the state, by having intermarried with a citizen of this commonwealth, or a citizen of any other of the United States, or purchased lands of the value of three hundred dollars therein.

How emigrants, other than alien enemies may become citizens.

III. *PROVIDED* always, That no person having or holding any place or pension from any foreign state or potentate, shall be eligible to any office, legislative, executive, or judiciary, within this commonwealth.

Exception as to holding offices.

IV. AND for the encouragement of useful artizans, mechanics, and handicraft tradesmen, to migrate into this commonwealth, *Be it further enacted*, that all and every such person or persons last mentioned, who shall hereafter migrate to this commonwealth, shall be wholly exempt from the payment of any tax on his or their tools, or implements of trade, which he or they shall bring into this commonwealth, at the time of his or their migration thereto; and shall moreover be exempted from all taxes whatsoever except the land tax, for the space of five years next thereafter, and if he or they shall so long continue the actual exercise of his or their trade or occupation therein.

Artizans, mechanics, &c. migrating to this state, exempted from taxes for a certain time.

V. *WHENSOEVER* any citizen of this commonwealth, shall, by deed in writing, under his hand and seal, executed in the presence of, and subscribed by three witnesses, and by them, or two of them proved in the General court, any district court, or the court of the county or corporation where he resides, or by open verbal declaration made in either of the said courts, to be by them entered of record, declare that he relinquishes the character of a citizen, and shall depart out of this commonwealth, such person shall, from the time of his departure, be considered as having exercised his right of expatriation, and shall thenceforth be deemed no citizen.

How a citizen may expatriate himself.

VI. ALL persons who, having accepted a military commission from the United States, or any of them, or who, having taken the oath of fidelity to any of the United States, or who having been natives of, or residents in any of the United States, on the nineteenth day of *April*, in the year one thousand seven hundred and seventy-five, or at any time since, have at any time during the late war, voluntarily joined themselves to the fleets or armies of the King of *Great Britain*, or have voluntarily borne arms against the United States, or any of them, in any garrison, port or fortification, or other place whatsoever, within their territories, or on their coasts; or have been owner, or part owner of any privateer, or other armed vessel cruising against the said United States, or any of them; and all and every person and persons, who at any time acted as a member of the board, commonly called the board of refugee commissioners,

Certain descriptions of persons prohibited from migrating to, or becoming citizens of this commonwealth.

† See acts of third Congress (begun Nov. 1794) ch. 85, pa. 69, which takes from county courts the power of admitting aliens to citizenship. (a) 1796, ch. 10.

at New-York, or under the authority, or by the direction of the said board, shall be, and they are hereby prohibited from migrating to, or becoming citizens of this commonwealth; and all such persons shall be equally subject to the pains, penalties and disabilities of this act, although they have been heretofore, or shall be hereafter admitted to take the oaths of fidelity to this commonwealth, in any court of record within the same, as if they had not taken the said oaths.

How they may be punished for contravening this act.

In suits brought by them against citizens, judgment shall be rendered for the defendants with treble costs.

All other former residents allowed to return.

But not to vote at elections or hold offices.

Nothing herein to contravene the treaty with Great-Britain.
Repealing clause.

Commencement of this act.

VII. ALL and every person and persons prohibited by this act, from migrating to this commonwealth, who shall be found within the same, shall and may be prosecuted in the General court of this commonwealth, as for a misdemeanor; and if upon trial, such person or persons be found guilty of a breach of this act, he or they shall be imprisoned, for a term not exceeding six months, in the public jail of this commonwealth, without bail or mainprize, and may be fined at the discretion of the said court, in any sum not exceeding three hundred dollars, and shall moreover stand committed until such fine be paid; and if the person or persons so convicted, shall be found at large in this commonwealth, after the expiration of one year, from the time of his or their conviction, or of one month from the time of his or their enlargement from jail, such person or persons shall be committed to the public jail; and upon proof being made of the identity of such person or persons, he or they shall be thereafter imprisoned in the public jail for the space of five years, without bail or mainprize, and shall moreover forfeit all his goods and chattels, lands and tenements, for the use of the commonwealth; and if any person prohibited by this act from migrating to this commonwealth, shall institute any suit or action whatsoever, in any of the courts of this commonwealth, against any citizen or other person entitled to become a citizen thereof, the defendant or defendants may plead this act in bar of such action or suit; and if upon the trial of the cause, it shall appear that the plaintiff is by this act prohibited from migrating to this commonwealth, and that the cause of action arose within the same, after the commencement of this act, the jury shall find for the defendant or defendants, and thereupon judgment shall be given against the plaintiff, with treble costs of suit; and the clerk of the court in which such cause shall be tried, shall, within one month thereafter, transmit a copy of the record, together with the names of the witnesses sworn on the part of the defendant or defendants, to the Attorney General; who shall, at the next succeeding session of the General court, file an information, or prefer an indictment to the grand jury, against the person or persons against whom such verdict and judgment shall have been given.

VIII. ALL persons resident in this, or any other of the United States, on the aforementioned nineteenth day of April, and not included in the above description, who are at present prohibited by law from migrating to this state, shall be, and they are hereby permitted to migrate into, and enjoy all the rights of citizenship, except that they shall not be capable of voting for members to either House of Assembly, or of holding or accepting any office of trust or profit, civil or military.

IX. PROVIDED, That nothing herein contained, shall be construed so as to contravene the treaty of peace with Great-Britain.

X. ALL and every Act and Acts, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed.

XI. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. CXI.

An Act concerning Coin, and for other Purposes.†

[Passed the 19th of December, 1792.]

What gold and silver coins shall be current,

I. **B**E it enacted by the General Assembly, That from and after the first day of January, in the year of our Lord one thousand seven hundred and ninety-three, the gold and silver coin herein after mentioned, shall be current in this commonwealth, and shall be a legal tender in payment of all debts and contracts between individuals, and in payment of all public dues and taxes, at the rates following, until it shall be otherwise regulated and directed by the Congress of the United States; that is to say: The gold coin of France, Spain,

† Amended, post, ch. 157.

Portugal, and *England*, at the rate of five shillings and four-pence the penny-weight, or of a dollar for twenty-seven grains; the gold coin of *Germany* at the rate of four shillings and ten-pence the pennyweight, or a dollar for twenty-nine grains and eight tenths of a grain; *Spanish* milled dollars at the rate of six shillings, or one hundred cents; and other silver coin uncut, in like proportion. Cut silver coin shall be receivable at the treasury of this commonwealth for all public dues and taxes, at the rate of six shillings and eight-pence, or one dollar and eleven cents the ounce.

II. *AND be it further enacted*, That the money of account of the commonwealth, shall be expressed in dollars or units, dimes or tenths, cents or hundredths, and mills or thousandths; a dime being the tenth part of a dollar, a cent the hundredth part of a dollar, and a mille the thousandth part of a dollar; and that all accounts in the public offices, shall be kept and had in conformity to this regulation.

III. THE treasurer of the commonwealth is authorized and directed to receive from the commissioner of the loan-office of the United States in this state, the interest which hath or shall become due on the deficiency of the sum allowed to be subscribed of the debt of this commonwealth, agreeably to an act of Congress, intituled, "*An act making provision for the Debt of the United States.*"

VI. ALL and every Act and Acts, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed.

V. THIS act shall commence in force, from and after the first day of *January*, in the year of our Lord one thousand seven hundred and ninety three.

until regulated by congress.
Rates.

So much of this act as relates to German gold and cut silver repealed. See acts of 1793, ch. 13.

The public accounts to be kept in dollars and parts of dollars.

The treasurer to receive the interest on the deficiency of the loan of the state debt.

Repealing clause.

Commencement of this act.

CHAP. CXII.

An Act against Divulgers of False News.

[Passed the 27th of December, 1792.]

I. **W**HEREAS many idle and busy-headed people, do forge and divulge false rumours and reports:

II. *BE it therefore enacted by the General Assembly*, That what person or persons soever, shall forge or divulge any such false reports, tending to the trouble of the country, he shall be by the next justice of the peace sent for, and bound over to the next county court; where if he produce not his author, he shall be fined forty dollars, (or less if the court think fit to lessen it) and besides give bond for his good behaviour, if it appear to the court that he did maliciously publish or invent it. *a*

III. ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

IV. THIS Act shall commence and be in force, from and after the passing thereof.

Preamble.

Divulgers of false news to be fined and bound to good behaviour.

Repealing clause.

Commencement of this act.

CHAP. CXIII.

An Act to prevent unlawful Hunting.

[Passed the 23d of December, 1792.]

I. **W**HOSOEVER shall hereafter use any fire hunting, or the killing of any deer by such means, on any patented lands, every person present at such fire hunting, shall forfeit and pay four dollars for every such offence; which penalties shall and may be recovered before any justice of the peace in the county where any of the offences aforesaid shall be committed, and shall be divided, one half to the use of the overseers of the poor of the district wherein the offence was committed, and the other half to the person or persons who will inform for the same. And every justice of the peace before whom information shall be made of any of the offences aforesaid, shall take for evidence the confession of the party accused, or the oath of one credible witness; and where the owner of any lands shall prosecute for any unlawful hunting and ranging on his lands, the oath of such owner shall be sufficient evidence to convict the offender; but in that case the whole penalty shall go to the overseers of the poor. *b*

II. IF any person shall shoot, or otherwise kill any tame deer, having a bell or collar on its neck, every person so offending, shall be liable to an action of

Penalty for fire hunting.

What evidence of the offender's guilt shall be sufficient.

Penalty for killing tame deer.

(a) 1661, ch. 11, sec. 1, 2. (b) 1758, ch. 1, sec. 8, 9.

Repealing clause,
Proviso.

Commencement of this
Act.

trespass to the person whose property the same shall be, to be prosecuted in the court of the county where the offence shall be committed. *a*

III. ALL and every Act and Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, That nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

IV. THIS Act shall commence in force, from and after the passing thereof.

CHAP. CXIV.

An Act concerning the right of Entry, and giving Remedy against collusive Judgments of Lords, and wrongful Alienations thereof in certain Cases.

[Passed the 19th of December, 1792.]

Preamble.

I. **W**HERE a husband doth lose the lands of his wife by default, it is unreasonable that the wife after the death of her husband, should have no other recovery but by writ of right:

A widow not barred of
right of entry into her
land lost by her hus-
band's default.

II. *BE it therefore enacted by the General Assembly*, That a woman, after the death of her husband, shall not be injured by such default, but shall notwithstanding, retain her right of entry, and may prosecute the same, by any real or mixed action, that may best suit the case. If the tenant shall object to the wife's claim, that he entered by judgment, and it be found that his entry was by default, to which he shall answer, if required, he shall then further answer and shew his right in like manner as in the writ he first purchased against the husband and wife; and if he can shew such right, the wife shall gain nothing by her writ; but if the husband absent himself and will not defend his wife's right, or against the wife's content, will render the wife's lands in any suit instituted against the husband and wife for lands which are her inheritance during the coverture, then the wife may come at any time before judgment, and defend her right. *b*

When the wife may
defend a suit brought for
her lands.

When the reversioner
may defend a suit bro't
against the tenant for
life.

III. IF tenant in dower, tenant by the curtesy, or otherwise for term of life, or by gift, where the reversion is reserved, do make default, or will give up, the heirs or they unto whom the reversion belongeth, shall be admitted to their answer if they come before judgment; and if upon such default or surrender, judgment happen to be given, then the heir or they unto whom the reversion belongeth, after the death of such tenants, shall in no wise be injured by such default or surrender. *b*

When the dying seized
of a disseisor shall not
take away the right of
entry.

IV. THE dying seized hereafter of any disseisor, having no right or title, shall not be such descent in law as to take away the right of entry from such, as at the time of the death of the disseisor, had lawful title of entry, except such disseisor hath had peaceable possession five years next after the disseisin committed without entry, or continual claim of such as have lawful title. *c*

Husband's conveyance
of his wife's lands not
to prejudice her or her
heirs.

V. NO feoffment, or other conveyance, or other act or acts hereafter to be made, suffered, or done by the husband only, of any lands, tenements, or hereditaments, being the inheritance or freehold of his wife, during the coverture between them, shall in any wise be, or make any discontinuance thereof, or be prejudicial or hurtful to the said wife or her heirs, or to such as shall have right, title, or interest to the same, by the death of such wife; but the said wife or her heirs, and such other to whom such right shall appertain after her decease, shall and may then lawfully enter into all such lands, tenements, and hereditaments, according to their rights and titles therein; any such feoffment, or other conveyance, or act, to the contrary notwithstanding. *c*

Repealing clause
Proviso.

VI. ALL and every Statute and Act, or clause and clauses of any Statute or Act, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided nevertheless*, That nothing herein contained, shall be construed to affect any right which may have accrued, or been vested before the commencement of this Act.

Commencement of this
Act.

VII. THIS Act shall commence in force, from and after the passing thereof.

(a) 1772, ch. 39, sec. 5. (b) 13 Edw. 1st, ch. 3. (c) 32 H. 8, ch. 33. *Id.* ch. 28, sec. 6.

CHAP. CXV.

An Act reducing into one the several Acts concerning the Fees of certain Officers, and declaring the Mode of discharging the said Fees and County Levies.†

[Passed the 19th of December, 1792.]

I. **B**E it declared and enacted, by the General Assembly, That it shall and may be lawful for the clerk of the council, the clerk of the house of delegates, the register, the clerks of the general court, high court of chancery, court of appeals, district courts, clerks of corporation courts, and all county court clerks, sheriffs, coroners, constables, and surveyors, respectively, to demand, receive and take the several fees herein after mentioned and allowed, for any business by them respectively done, by virtue of their several offices, and no other fees whatsoever: That is to say— *a*

Fees to be received by

To the Clerk of the Council,

For every testimonial, - - - - -

Dolls. Cts.
1 67

The clerk of the council.

To the Clerk of the House of Delegates,

For a copy of an act of Assembly, if contained in one sheet,

1 0

The clerk of the house of delegates.

And for every sheet after the first, - - - - -

0 75

To the Register, b

For issuing a warrant of survey, and recording the same, - - - - -

0 63

The register of the land-office,

For every warrant issued in exchange for another warrant, or where lands claimed under a former warrant, shall be recovered on a *caveat*, and recording the same, - - - - -

0 63

For receiving a plat and certificate, and giving a receipt for the same, - - - - -

0 10

For issuing and recording a grant thereupon, if the quantity therein contained exceed not four hundred acres, - - - - -

1 26

For every hundred acres, exceeding that of four hundred, - - - - -

0 10

For recording a plat and certificate of survey, if the quantity does not exceed four hundred acres, - - - - -

0 42

For every hundred acres exceeding that quantity, - - - - -

0 10

For entering a *caveat*, or for a copy thereof, - - - - -

0 42

For a copy of any grant or patent of land, - - - - -

0 63

For a search for any thing, or for reading the same, if a copy be not required, - - - - -

0 21

For keeping a regular account of warrants, examined and cancelled, to be paid by the treasurer, on the auditor's warrant, for each warrant, - - - - -

0 6

To the Surveyor, c

For every survey by him plainly bounded as the law directs, and for a plat of such survey, after the delivery of such plat, where the survey shall not exceed four hundred acres of land, - - - - -

5 25

Surveyors.

For every hundred acres contained in one survey above four hundred, - - - - -

0 25

For surveying a lot in town, - - - - -

1 0

And where a surveyor shall be stopped or hindered from finishing a survey by him begun, to be paid by the party who required the same to be surveyed, - - - - -

2 62

For running a dividing line, - - - - -

2 10

For surveying an acre of land for a mill, - - - - -

1 5

For every survey of land formerly patented, and which shall be required to be surveyed, and for a plat thereof delivered as aforesaid, the same fee as for land not before surveyed, - - - - -

And where a survey shall be made of any lands which are to be added to other lands, in an inclusive patent, the surveyor shall not be paid a second fee for the land first surveyed, but shall only receive what the survey of the additional land shall amount to, - - - - -

And where any surveys have been actually made of several parcels of land adjoining, and several plats delivered, if the party shall desire one inclusive plat thereof, the surveyor shall make out such plat for - - - - -

1 5

For running a dividing line between any county or parish, to be paid by such respective counties or parishes, in proportion to the number of tithables, if ten miles or under, - - - - -

10 50

And for every mile above ten, - - - - -

0 30

† See acts of '96, ch. 5. (a) 1745, as altered by subsequent regulations (b) May 7, 20, ch. 7, sec. 1. (c) Oct. '83, ch. 32, sec. 3.

Assignees of surveys
answerable for survey-
or's fees where the as-
signor has not paid them.

	Dolls.	Cts.
For receiving a warrant of survey, and giving a receipt therefor,	0	17
For recording a certificate from the commissioners of any district of a claim to land allowed by them, to be paid by the claimant,	0	17
For making an entry for land, or for a copy thereof,	0	17
For a copy of a plat of land, or of a certificate of survey,	0	25

II. *PROVIDED always*, That where any person shall employ a surveyor, and shall have received a plat of land surveyed, and afterwards shall assign the plat of land to any other, either before or after obtaining a patent for the same, if such person for whom the land was first surveyed, shall not have paid for the said survey, it shall and may be lawful for the sheriff or other officer of the county or corporation, where such assignee shall reside, at the instance of such surveyor, to make distress upon the slaves, goods and chattels of such assignee, in like manner as is herein after provided for surveyors or other officers' fees refused or delayed to be paid. *a*

To the Clerk of the Court of Appeals,

Fees to be received by
the clerk of the court of
appeals.

The same fees with those of the high court of chancery and general court, for similar services.

To the Clerk of the High Court of Chancery,

The clerk of the high
court of chancery.

For filing a bill, answer, replication, or other pleadings, each,	0	26
For a copy thereof, for every twenty words,	0	2
For entering every decree,	0	18
For drawing up every decree at large, entering the substance of the bill, answer and other pleadings, the substance of the evidence and the decree thereupon, for every twenty words,	0	2
For filing the depositions in every cause in behalf of each party,	0	26
For a copy of the depositions, for every twenty words,	0	2

To the Clerk of the General Court,

The clerk of the gene-
ral court.

For a copy of a warrant and inquisition of escheat,	1	02
Or of a inquisition of escheat,	0	83
For the probat of any testament and recording the same, for entering the orders for appraising the estate, recording the inventory, writing and sealing the probat, or any other matter concerning the same, or for a commission of administration of the goods of any person dying intestate, for entering the order or orders for appraising the estate, recording the inventory, or for any other matter concerning the same where the appraisement doth not amount to above three hundred dollars,	3	50
Or where the appraisement exceeds three hundred dollars, and is under fifteen hundred dollars,	5	0
Or where the appraisement exceeds fifteen hundred dollars, or there is no appraisement,	7	0
For a copy of a probat, or commission of administration, <i>b</i>	0	70
For recording the memorial of each bargain, sale, mortgage, or other conveyance, marriage settlement, or deed of trust, there shall be paid by the person to whom the same shall be made,	0	18
For recording the certificate of a probat, or administration, <i>c</i>	0	18
For a copy of a will, or inventory,	0	70
And if the original is contained in more sheets than one, for a copy of every such sheet,	0	52
For a copy of an account,	0	35
For recording of a deed or deeds for the conveying or settling any lands or tenements only, or together with slaves or personal estate, or any way concerning the same, acknowledged or proved in the general court,	2	62
For a copy of such deed or deeds, with the endorsements thereon, and for a certificate of the acknowledgment or proof, and recording,	1	57
For issuing a commission to take the acknowledgment and privy examination of a <i>feme covert</i> , and recording it with the return of the commissioners,	0	87
For a copy thereof,	0	52
For recording a deed concerning slaves, or any personal matter only,	1	22
For a copy thereof with a certificate of the acknowledgment or proof, and recording,	0	70

Dols. Cts.

<i>Provided however, that for a deed of gift for slaves only, or for a copy thereof, there shall be allowed only a</i>	o	35
For recording a letter of attorney, acknowledged and proved in the general court, and every thing relating thereto, <i>b</i>	1	22
For a copy thereof,	o	70
For recording a bond with condition other than for performance of covenants in deeds of conveyance or settlement of lands,	o	70
For a copy of a bond with condition,	o	35

In Actions and other Suits,

For every writ of error, <i>superfedeas</i> , or <i>scire facias</i> ,	o	43
For taking bond on issuing a writ of error or <i>superfedeas</i> ,	o	43
For every other writ in any action or suit whatsoever,	o	35
For entering the sheriff's return, and entering the bail by him returned in the rule-book,	o	35
For entering special bail,	o	35
For entering the personal appearance of the plaintiff or defendant, or the appearance of an attorney for either party,	o	18
For entering security for costs for persons out of the country,	o	35
For filing a declaration, and every plea or demurrer in any cause to the making up of the issue, and for filing errors upon appeals, writs of error, or <i>superfedeas</i> ,	o	35
For a copy of every declaration, plea or demurrer, or of errors,	o	35
For every rule entered in the rule-book,	o	35
For a copy of every rule,	o	18
For every order in court before trial,	o	18
For a copy of the same,	o	18
For filing papers for each party in any action or suit,	o	26
For docketing every cause on the docket (to be charged but once)	o	18
For every trial, swearing the jury and witnesses, and recording a general verdict,	o	87
For administering an oath or affirmation in court, except witnesses to a jury,	o	18
For every trial where there is a special verdict, swearing the witnesses and jury, and recording such verdict,	1	30
And where there is no jury, but a case agreed,	o	43
For swearing witnesses for each party in every cause where there is no jury,	o	26
For a copy of a case agreed, or notes of a special verdict,	o	43
For entering every order made in court, after verdict, or demurrer joined,	o	18
For entering every continuance on the court docket,	o	18
For entering every judgment,	o	18
For making a complete record of every cause, inserting a case agreed or special verdict at large from the notes, and all deeds and other evidences at large, for every twenty words,	o	2
For a copy thereof or any part thereof, the same.		
For a recognizance in court,	o	35
For filing a return of a <i>habeas corpus</i> ,	o	26
For filing the record on a writ of error,	o	26
For a copy of such record for every twenty words,	o	2

To the Clerk of the General Court or High Court of Chancery,
[as the case may be.]

For taking a bond upon issuing injunctions,	o	43	The clerk of the general court, or the high court of chancery.
For every <i>dedimus potestatem</i> ,	o	35	
For recording the report of auditors, when it is desired,	o	70	
For making a complete record of every cause, for every twenty words,	o	2	
For filing the return of a <i>certiorari</i> ,	o	26	
For taxing the costs in any action or suit, and a copy thereof,	o	35	
For recording any thing not herein particularly mentioned, or for a copy thereof, for every twenty words,	o	2	
For a search for any thing, if above a year's standing, or reading the same, or any part thereof, if required, if a copy be not taken,	o	18	

		Dols.	Cts.
	For every order to a witness for attendance, (to be charged to the party against whom the order goes)	0	18
	<i>To the Clerks of the District Courts,</i>		
The clerks of the district courts.	For issuing a summons on a petition for lapsed-lands,	0	87
	For every order thereon,	0	25
	In all other cases, the same fees with those of the county courts, for similar services; and for all other services the same as those of the clerk of the General Court. <i>a</i>		
	<i>To the Clerk of a District Court, or the Clerk of the High Court of Chancery, [as the case may be.]</i>		
The clerks of the district courts, or the clerk of the high court of chancery.	For filing the record upon an appeal, or <i>superfedeas</i> from a county court, or any inferior court,	0	26
	For a copy of such record, for every twenty words, <i>b</i>	0	2
	<i>To the Clerks of the County and Corporation Courts.</i>		
The clerks of the county and corporation courts.	For every writ in the nature of an <i>ad quod damnum</i> , (to be paid upon issuing such writ)	0	83
	For recording the same with the inquisition thereupon, (to be paid before inquisition recorded)	1	92
	For a copy of such writ and inquisition (to be paid down)	0	83
	For taking a bond upon issuing injunctions in Chancery,	0	35
	For recording deeds of lease and release, for conveying or settling of lands only, or together with slaves and personal estate, bond to perform covenants, certificate of the proof or acknowledgment, as the case is, and all matters relating thereto, <i>c</i>	2	62
	For a copy thereof,	0	95
	For recording every deed of feoffment, or bargain and sale, or other single deed for conveying or settling lands and tenements only, or together with slaves and personal estate, bond to perform covenants, certificate of the proof or acknowledgment, as the case is, and all matters relating thereto,	1	75
	For a copy thereof,	0	70
	For issuing and recording a commission to take the acknowledgment and privy examination of a <i>feme covert</i> , with the certificate of the commissioners, if such commission be required,	0	70
	For a copy thereof,	0	35
	For recording a patent,	0	87
	For a copy thereof,	0	43
	For recording a deed concerning slaves, or any personal matter or thing only, with certificate of its proof or acknowledgment,	0	70
	For a copy thereof,	0	52
	<i>Provided however, That for a deed of gift for slaves only, or for a copy thereof, there shall be allowed only, d</i>	0	35
	For recording a letter of attorney, <i>e</i>	0	52
	For a certificate of the proof or acknowledgment thereof,	0	18
	For a copy of a letter of attorney with such certificate,	0	43
	For recording a bond with condition, other than for performance of covenants in deeds of conveyance, or settlement of lands,	0	35
	For a copy of a bond, with condition, other than an appeal bond, the same.		
	For a copy of any other obligation or promissory note,	0	18
	For the probation of any will or testament, and recording the same, entering the order or orders for appraising the estate, and for any other matter concerning the same, where the will shall be contained in one sheet,	0	70
	And if the will is contained in more than one sheet, for every such sheet,	0	35
	For a commission of administration of the goods of any person dying intestate, for entering the order or orders for appraisement, and for any other matters concerning the same,	0	70
	For recording an inventory, where the appraisement doth not amount to more than thirty dollars,	0	18
(a) 1788, ch. 67, sec. 21. (b) From 145, ch. 1. (c) See acts of 1796, ch. 2.			
(d) 1753, ch. 1, sec. 2. (e) 1745, ch. 1, sec. 2.			

Dols, Cts

Where the appraisement exceeds that value, and is under one hundred and fifty dollars,	0	87
And where it shall exceed one hundred and fifty dollars, and is under three hundred dollars,	1	75
And where it shall exceed three hundred dollars, or there is no appraisement,	4	37
For a copy of a will or inventory, if the original is contained in one sheet,	0	52
If the original is contained in more sheets than one, for a copy of every such sheet besides the first,	0	35
For recording the age of a servant or slave, adjudged in court,	0	18
For a certificate thereof if required,	0	14
For attending a court for examination of criminals and trial of slaves, if the court is held for that purpose (to be paid by the public) ^a	3	50
For a copy of a list of tithables, in his precinct, ^b	0	35
For the whole fee for an ordinary license and bond,	0	87
For a copy of the rates of liquors,	0	26
For a marriage license, certificate, and bond,	0	87
For every search for any thing above a year's standing if a copy be not taken,	0	8
For reading any thing if a copy be not required,	0	8

In Actions and other Suits.

For every writ, other than such as are herein particularly mentioned,	0	18
For a copy of such writ,	0	8
For every writ of execution, or <i>scire facias</i> ,	0	26
For a copy thereof,	0	14
For recording the return thereof,	0	14
For a writ of attachment, in any action,	0	26
For recording the return thereof,	0	26
For an attachment granted by a justice of the peace, returnable to the court, and recording the return and putting the same on the docket,	0	35
For every summons to summon a garnishee on such attachment,	0	18
For filing every bail bond, or entering the bail returned,	0	18
For docketing every cause, except by petition (to be charged but once)	0	8
For a copy of the return of any writ,	0	5
For entering special bail,	0	18
For entering security for costs for persons out of the country,	0	18
For entering the appearance of the defendant or defendants, where there is no attorney, in any suit, except by petition,	0	8
For entering one or more attorneys for each party,	0	8
For every petition, declaration, or other pleadings, except in suits by petition for debt, <i>detinue</i> , <i>assumpsit</i> , or <i>trover</i> ,	0	18
For a copy of any declaration, special plea, or demurrer,	0	18
For a copy of a plea, if the general issue,	0	5
For every trial, swearing the jury and witnesses, filing all papers, and recording a general verdict,	0	70
For every trial where there is a special verdict, or case agreed, and recording the same,	1	13
For swearing the witnesses in every other cause, where there is no jury or case agreed, except by petition,	0	18
For filing the papers of each party in every cause, except by petition, and where there is a jury or case agreed,	0	18
For a copy of a special verdict, or case agreed, and every thing therein set forth, or for making up a full and complete record, for every thirty words,	0	2
For entering every judgment, or for a copy thereof,	0	18
For filing a bill, answer, replication, and other pleadings in chancery, for each,	0	18
For a copy thereof, for every thirty words,	0	2
For a commission to examine witnesses,	0	43

(a) 1787, ch. 44. (b) 1745, ch. 1, sec. 2.

	Dols.	Cts.
For attending and writing depositions taken against inspectors before justices of the peace, - - -	1	75
For entering every decree in chancery, - - -	0	26
For filing the depositions in any suit, for each party, - - -	0	8
For every deposition taken in court, - - -	0	18
For a copy of a deposition, - - -	0	18
For administering an oath in court, not relating to the trial of any cause there depending, and certifying the same, - - -	0	18
For every recognizance in court, - - -	0	18
For entering the order or orders in any cause in one court, - - -	0	26
For entering every order for attendance of witnesses, - - -	0	18
For a copy of any order, - - -	0	18
For recording the report of a jury in the county, surveyor, auditor or viewers, - - -	0	35
For a copy thereof, - - -	0	35
For taxing costs to any judgment or decree, where costs are recovered, or for a copy of a bill of costs, if required, - - -	0	20
For a copy of an account, - - -	0	18
For entering an appeal, and taking bond to prosecute it, - - -	0	35
For a copy of the bond, - - -	0	18
For returning an appeal and security to the office of the court of chancery, or a district court, (as the case may be) - - -	0	52
For returning a writ of error, <i>superfedeas</i> , <i>certiorari</i> , or <i>habeas corpus</i> , - - -	0	35
For a copy of the proceedings of the cause, wherein the appeal is granted, for every thirty words, - - -	0	2
For recording the acknowledgment of satisfaction of a judgment, - - -	0	18
For entering each order for a witness's attendance, (to be charged to the party in whose behalf the witness is summoned, and taxed in the bill of costs, if such party recover,) - - -	0	18
For a copy thereof, to be taxed and charged in like manner, - - -	0	18
For an attachment thereon, to be charged to the party against whom the attachment shall be issued, - - -	0	18
For the whole fee chargeable for every petition for debt, <i>detinue</i> , <i>assumpsit</i> , or <i>trover</i> , and all the proceedings therein, including a copy of the judgment, and taxing costs, if required, except the respective fees for summoning witnesses, entering attorneys, for every order for continuance, and for issuing execution, where any of those matters happen, - - -	0	87
For entering an attorney in such petitions, to be paid by the party by whom such attorney shall be employed, and not to be taxed in the bill of costs, - - -	0	8
For a summons for several witnesses living in one county, if summonses for all be taken out at one time, - - -	0	18
For recording any thing not herein particularly mentioned, or for a copy thereof, for every thirty words, - - -	0	2
For the acknowledgment and proof of any deed in the county court, and for certifying the same to be recorded in the General Court, - - -	0	52

WHICH said several fees shall be charged to the party at whose instance the business shall be performed, except where it is otherwise directed.

The commissioners of the high court of chancery.

III. THE commissioner or commissioners of the High Court of Chancery may issue their tickets for the sums allowed by the said court, for services performed by them under the orders of the said court, and deliver them to the respective sheriffs, at the same time the clerk of the said court is directed by law to deliver his tickets; and the several sheriffs shall collect and account for them in the same manner, and under the like penalties, and shall have the same allowance for collecting and for insolvencies, as are prescribed in the case of the clerk of the said High Court of Chancery.

Rules in taxing costs.

IV. IF any plaintiff or defendant, or his or her attorney, shall take out copies of his or her own declaration or pleadings, or of his or her own papers in any cause, or of any common order made in such cause, the charge of such copies shall not be allowed in the bill of costs, although such party recover; and where more attorneys than one shall be employed in any cause on one side, if such attorneys take out more than one copy of any thing necessarily relating to the suit, yet no more than one copy shall be allowed in the bill of costs; nei-

ther shall the clerk tax any fee in the bill of costs for entering more than one attorney, although costs shall be adjudged against the adverse party. *a*

Dols. Cts.

FOR all public services of the clerk, viz. entering and issuing copies of orders for appointing surveyors of high ways, appointing constables, grand juries, taking a list of tithables, entering guardians accounts, and all matters relating thereto; binding out poor orphans, and appointing guardians, entering the levy and copies thereof, and of the list of tithables for the collector, and for entering and issuing the orders, except against guardians, where they shall stand out in contempt (to be charged to such guardian) and issuing the orders for recommending sheriffs and justices, and for process-fining, and all other public services for which no particular fee is allowed, to be levied annually by the justices of the county,

25 0

V. AND where a motion or suit shall be instituted against any person or persons for money due to the public, in the name of, or by the person authorized by law so to do, and judgment shall be recovered against him, her, or them, the clerk of the court wherein such motion or suit shall be instituted, shall and is hereby required to charge all the fees accruing thereon, to the person or persons against whom such judgment shall be obtained.

In suits or motions against public debtors.

VI. NO county court clerk shall charge any fee for making up a complete record, unless it be in causes where the title or bounds of lands are determined, or where he is to transmit the transcript of the record of any cause to the office of a superior court upon appeals, writs of error, *superfedeas*, *habeas corpus*, or *certiorari*.

In what cases county court clerks may charge fees for making up complete records.

VII. AND to the end all persons chargeable with any of the fees aforesaid, may certainly know for what the same are charged, *Be it further enacted*, That none of the fees herein before mentioned, shall be payable by any person whatsoever, until there shall be produced, or ready to be produced unto the person owing or chargeable with the same, a bill or account in writing containing the particulars of such fees, signed by the clerk or officer to whom such fees shall be due, or by whom the same shall be chargeable respectively; in which said bill or account, shall be expressed in words at length, and in the same manner as the fees aforesaid are allowed by this act, every fee for which any money or tobacco is or shall be demanded.

Fee bills to be produced

To the Sheriff or Serjeant,
(as the case may be.)

Dols. Cts.

For an arrest, bond, and return,	0	63	Sheriff's fees
For returning a <i>capias</i> , <i>non est inventus</i> ,	0	21	
For serving a <i>scire facias</i> ,	0	30	
For serving any person with an order of court, and making return thereof,	0	30	
For pillorying any person,	0	42	
For putting into the stocks,	0	21	
For ducking any person,	0	42	
For putting in prison and releasement,	0	42	
For serving a <i>subpoena</i> in chancery,	0	30	
For serving a summons upon a petition for debt, detinue, <i>assumpsit</i> , or trover,	0	30	
For serving a <i>subpoena</i> for a witness in any cause in court, except summoned in court,	0	21	
For summoning an appraiser, auditor, viewer, or witness to any deed, will, or writing, if required to be summoned, but not else,	0	21	
For summoning and impannelling a jury, in every cause wherein a jury shall be sworn,	1	5	
For coming to and attending the district court with the <i>venire</i> , and return of the <i>venire facias</i> , the same as is allowed to a <i>venire</i> man, (to be paid by the public) and for attending the district with stolen goods where there is no <i>venire</i> , the same			
For summoning the justices of the county and attending a court for the examination of a criminal (to be paid by the public,)	4	20	
For removing of every criminal from the county jail to a district jail, for every mile,	0	10	

(a) 1745, ch. 1.

E e

	Dols.	Cts.
For removing a debtor by <i>habeas corpus</i> from the county jail to a district jail, for every mile.	0	4
For executing every condemned person, and all fees incident (to be paid as aforesaid,)	5	25
For summoning a jury upon any inquisition, survey, writ of dower, or partition, if the jury appear,	3	15
And if the jury do not appear,	1	57
For making a return of a writ of dower, partition, or in the nature of an <i>ad quod damnum</i> ,	1	5
For every day's attendance upon a jury in the country after they are sworn, or attendance upon a surveyor, when ordered by the court,	1	5
For serving a writ of <i>habere facias seisinam</i> , or <i>habere facias possessionem</i> ,	1	5
For serving an attachment upon the body,	0	63
For serving a writ of <i>distingas</i> issuing from a judgment in detinue when the specific thing shall be taken,	1	5
For serving a declaration in ejectment, if against one tenant,	0	63
And if against more tenants than one, for serving the declaration on every other tenant,	0	30
For whipping a servant, to be paid by the owner, and repaid by the servant,	0	42
For whipping a free person by order of court (to be paid by such person) the same,		
For whipping a slave by order of court, to be paid by the county, and repaid by the public,	0	42
For taking a bond or bonds to the creditor under the act, intituled, " <i>An act for reducing into one, the several acts concerning executions, and for the relief of insolvent debtors.</i> " a	0	63
For proceeding to sell on any execution on behalf of the commonwealth, or of any individual, if the property be actually sold, or the debt paid, the commission of five <i>per centum</i> on the first three hundred dollars, or ten thousand pounds of tobacco, and two <i>per centum</i> on all sums above that, and one half of such commission where he shall have proceeded to sale, and the defendant shall have replevied, and no other commission, fee, or reward, shall be allowed upon any execution, except for the expense of removing and keeping the property taken. b		
For serving an attachment, or for making distress upon the goods exceeding ten dollars, if sold, the same fee as for serving an execution, where the goods do not exceed that value, or are not sold,	0	63
For every garnishee summoned on such attachment,	0	21
For executing any writ of <i>distingas</i> or attachment on a decree in chancery, the same fee or commissions upon the amount of the value of the goods and chattels recovered, or money mentioned in such decree as is by law allowed for serving any other execution.		
For serving and returning a general or district court writ, summons or order, where the same is not comprehended in any of the foregoing articles,	0	63
For making a proclamation as the law directs, in proving of wills or proceeding to outlawry,	0	42
For selling a servant at public outcry by order of court, and all fees incident,	0	42
For keeping and providing for a debtor in jail, each day,	0	21
For serving a justice's warrant,	0	21
For summoning a witness before a justice,	0	10
For all public services of the sheriff, to wit, attending the courts of claims, impannelling grand juries, publishing writs for electing delegates or senators, and attendance, serving all public orders of court (except against guardians where they shall stand out in contempt, to be charged to such guardian) and all other public and county services, to be levied annually by the justices on the county,	25	0

No fees to be charged to the defendants in presentments, if acquitted.

VIII. AND when any person or persons presented by the grand jury, or prosecuted by the overseers of the poor, shall be discharged of such presentment or prosecution, the clerk, attorney for the commonwealth, and sheriff, shall

(a) 1783. ch. 77, sec. 4. (b) 1791, ch. 3, sec. 7.

be entitled to no fees for the same, but it shall be deemed to be included in the public services; but if the party or parties so presented or prosecuted shall be convicted, then in such case the clerk shall tax all such fees against such party or parties. *a*

To the Coroner,

	Dols.	Cts.	
For taking an inquisition on a dead body, (to be paid out of the estate of the deceased) if the same be sufficient, if not by the county,	2	80	Coroner's fees.
For all other business done by him, the same fees as are allowed the sheriff for the same services.			

To the Constable,

	Dols.	Cts.	
For serving a warrant,	0	21	Constable's fees.
For summoning a witness,	0	10	
For summoning a coroner's jury and witnesses,	1	5	
For putting into the stocks,	0	21	
For whipping a servant, (to be paid by the owner, and repaid by the servant,)	0	21	
For serving an execution or attachment, returnable before a justice,	0	21	
For serving an attachment, returnable to the county court, against the estate of a debtor removing his effects out of the county,	0	63	
For whipping a slave, (to be paid by the overseer, if the slave is under an overseer, if not, by the master,)	0	21	
For removing any person suspected to become chargeable to the county, (to be paid by the overseers of the poor) for every mile,	0	4	
The same for returning.			

IX. THE clerks of the general court, high court of chancery, court of appeals, and district courts, shall cause to be set up in some public place in their offices, and there constantly kept, a fair table of their fees herein before mentioned, on pain of forfeiting forty dollars, for every court day the same shall be missing through their neglect; and the clerk of every county and corporation court, shall in like manner set up a fair table of all other fees, herein before mentioned, in the courthouse of his county, to be there constantly kept, on pain of forfeiting twenty dollars, for every court day the same shall be missing through his neglect; and the surveyor of every county shall also cause to be set up in some public place, in his office, and there constantly kept, a fair table of his fees, herein before mentioned, on pain of forfeiting three hundred dollars. All which penalties shall be to the person or persons, who shall inform or sue for the same, and shall and may be recovered in any court of record within this commonwealth, by action of debt or information. *a*

X. IF any officer hereafter shall claim, charge, demand, exact, or take any more, or greater fees for any writing, or other business by him done, within the purview of this act, than herein before set down and ascertained, or if any officer whatever shall charge or demand, and take any of the fees herein before mentioned, where the business for which such fees are chargeable, shall not have been actually done and performed, (to be proved by the fee book of such officer, upon his corporal oath) such officer for every such offence shall forfeit and pay to the party injured, besides such fee or fees, six dollars for every particular article or fee so unjustly charged or demanded or taken; to be recovered with costs, in any court of record in this commonwealth, by action of debt or information: *Provided* the same be sued for within twelve months after the offence shall be committed. *b*

XI. AND for the better collecting the said fees, *Be it enacted*, That the surveyor of every county shall, annually, before the twentieth day of *January*, and the clerk of every district, county and corporation court, respectively, shall, annually, before the first day of *March*, deliver or cause to be delivered, to the sheriff of every county in this state, and to the serjeant of every corporation, respectively, their accounts of fees due from any person or persons residing therein, which shall be signed by the clerks or surveyors respectively. *c*

XII. AND the said sheriffs and serjeants are hereby required and empowered to receive such accounts, and to collect, levy and receive the several sums of money therein charged of the persons chargeable therewith; and if such person or persons, after the said fees shall be demanded, shall refuse or delay to

(a) From 1745, ch. 1, sec. 7, 9. O.S. '83, ch. 32, sec. 5. (b) 1745, ch. 1, sec. 10. (c) 1787, ch. 52. Oct. '78, ch. 14.

No action to be brought for fees where distress can be made.

When the sheriffs are to account for them.

Remedy against them in case of refusal.

Clerks of the court of appeals, of the high court of chancery and general court, to deliver accounts of fees to sheriffs.

Remedy against them for failing to account for them.

Sheriff's receipt to be deemed his act unless denied upon oath.

pay the same, till after the tenth day of *April*, in every year, the sheriff of that county, or serjeant of that corporation wherein such person resides, or of the county in which such fees became due, shall have full power, and are hereby required, to make distress of the slaves, or goods and chattels of the party so refusing or delaying payment, either in that county or corporation where such person inhabits, or where the same fees became due. And the sheriff of any county or serjeant of a corporation, for all fees which shall remain due and unpaid after the said tenth day of *April* in any year, either to themselves or the sheriffs or serjeants of another county or corporation, which shall be put into his hands to collect as aforesaid, is hereby authorised and empowered, to make distress and sale of the goods and chattels of the party refusing or delaying payment, in the same manner as for other fees due to any of the officers herein before mentioned; but no action, suit, petition or warrant from a justice, shall be had or maintained for clerks, or surveyors fees, unless the sheriff or serjeant shall return, that the person owing or chargeable with such fees hath not sufficient within his bailiwick whereon to make distress, except where the clerk or other officer, as aforesaid, shall have lost his fee book by fire or other misfortune, so that he be hindered from putting his fees into the sheriff's hands to collect; and in that case any suit, or warrant may be had and maintained for the recovery thereof. And if any sheriff shall be sued for any thing by him done in pursuance of this act, he may plead the general issue, and give this act in evidence.

XIII. EVERY sheriff of every county, and every serjeant of every corporation, shall, on or before the last day of *May*,† in every year, account with the clerks of the respective district, county and corporation courts, and the respective surveyors, for all fees put into his hands pursuant to this act, and pay the same, abating six *per centum* for collecting. And if any sheriff or serjeant shall refuse to account or pay the whole amount of fees put into his hands, after the deductions aforesaid made, together with an allowance of what is charged to persons not dwelling, or having no visible estate in his county, it shall and may be lawful for the clerks or surveyors, their executors or administrators, upon a motion made in the next succeeding district court, or in the court of the county of such sheriff, or in the court of the corporation of such serjeant, to demand judgment against such sheriff or serjeant, for all fees wherewith he shall be chargeable by virtue of this act; and such court is hereby authorised and required to give judgment accordingly, and to award execution thereupon; provided the sheriff have ten days previous notice of such motion. *a*

XIV. THE clerks of the courts of appeals, high court of chancery, and general court, shall deliver their tickets to the respective sheriffs and serjeants, annually before the first day of *May*, and the sheriffs and serjeants shall receive and collect the same, and shall distrain and make sale of the debtor's slaves, goods, or chattels, for all such tickets as shall remain unpaid after the first day of *July*, in any year; and if the said sheriffs or serjeants shall fail to pay the said fees to the respective clerks at their offices in *Richmond*, or such town or place as the treasury may be kept at, by the fifteenth day of *September*, annually, abating ten *per centum* for collecting, and making an allowance for insolvencies and non-residents, having no estates within their counties, which shall be accounted for on oath, the said clerks or either of them, their executors or administrators, upon motion made in the court of the district, county or corporation, in which the sheriff or serjeant failing to make payment as aforesaid, may be found, may demand judgment against him for all fees, wherewith he shall be chargeable by this act, and such court respectively shall enter judgment accordingly; provided the sheriff have ten days notice of such motion; and judgment may be obtained as aforesaid against any under sheriff, who may fail to add the name of his principal to the receipt for such fees. *b*

XV. THE executors or administrators of any such sheriff, under sheriff, or serjeant, shall be liable to judgment as aforesaid, for the fees received, to be collected by their testator or intestate, and accounted for. Every receipt for fees produced in evidence on any such motion, shall be deemed to be the act of the person subscribing it, unless he shall deny the same upon oath.

XVI. THE clerks of the said courts, their executors or administrators, may obtain judgments as aforesaid, for all balances now due to them from any

† Allowed by acts of 1796, ch. 27, till 1st Sept. (a) 1745, ch. 1, sec. 13.
(b) From '85, ch. 38.

Sheriff, under sheriff, or serjeant, on account of fees heretofore put into their hands to be collected.

XVII. THE judges of the superior courts (except the general court) shall make such allowances from time to time to their respective officers as they shall think reasonable; taking into account the time past for which no allowance hath been made by the assembly; which allowances when made and audited, shall be paid by the treasurer out of any public money in his hands.†

Superior courts to make allowances to their officers.

XVIII. ALL acts or parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements which have accrued, been vested, or incurred prior to the commencement of this act.

Former acts repealed. Proviso.

XIX. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this Act.

CHAP. CXVI.

An Act reducing into one, the several Acts for the Settlement and Regulation of Ferries.

[Passed the 26th of December, 1792.]

I. **B**E it enacted by the General Assembly, That ferries be constantly kept at the places hereafter mentioned, and at the rates annexed to each ferry; that is to say:

Public ferries established.

Over the Bay of Chesapeake.

FROM York, Hampton and Norfolk towns, to the land of the heirs of John Bowdoin, deceased, on Hungar's river, for a man or horse passing singly, three dollars and thirty-three cents; for a man and horse, or if there be more, for each, two dollars and fifty cents.

Over Potowmac River and its Branches.

	For a man Cents	For a horse Cents
From Henry Ashton's to Cedar Point, Maryland,	42	42
From Thomas Rowe's to Cedar Point,	42	42
From Hoo's to Cedar Point,	33	33
From Lawrence Washington's to Maryland, opposite,	42	42
From Boyd's-hole to Maryland, opposite,	42	42
From the land of Gustavus Scott in Stafford, to Kennedy's in Maryland,	33	33
From Newport in Prince-William, to Chamberlayne's in ditto,	33	33
From the town of Carbury to Brook's in ditto,	25	25
From William Clifton's to Wallis's in Maryland,	17	17
From Heretford's in Doeg's neck, to the lower side of Pamunkey in Maryland,	17	17
From Hugh West's to Frazier's or Addison's in ditto,	17	17
From Hunting Creek warehouse landing, to Frazier's point or Addison's in ditto,	17	17
From Floy's to Powell's,	8	8
Over Occoquan in Prince-William to Colchester,	4	4
Over Nominy in Westmoreland,	6	6
From Maton's to Rock Creek in Maryland,	6	6
From Earl Tankerville's in Loudoun, to Maryland,	6	6
From Noland's in Loudoun, to Arthur Nelson's land in ditto,	5	5
From Swearingen's, Berkeley, to his land in ditto,	5	5
From Harper's to his land in ditto,	5	5
From Foreman's, Frederick, to the opposite shore,	5	5
From Aubrey's in Loudoun, to Hook's in Maryland,	5	5
From Watkins's, opposite Canagocheo Creek, to Wade's in ditto,	4	4
From John Rout's land, Shenandoah, to the fork, or over the main river,	4	4
From Kersey's or Burwell's to the land of Landon Carter,	5	5
From Key's landing to William Fairfax, or his heir's land,	5	5

† The substance of this clause so far as relate to district courts, which was repealed in 1795, was re-enacted in 1796, ch. 27, pa. 22.

	For a man Cents	For a horse Cents
At Williams's Gap, from Lord Fairfax's land, to Ralph Worme- ley's land, - - - - -	5	5
From Samuel Earl's, Frederick, to Lord Fairfax's, - - -	4	4
From Thomas Bryan Martin's, Frederick, over the Shenandoah, -	5	5
From John Turberville's at Dial's landing, over Patowmac, -	8	8
From Ralph Humphreys's, Hampshire, over the south branch of Patowmac, - - - - -	6	6
From Thompson Mafon's, deceased, Loudoun, over Patowmac, -	8	8
From R. Parker's, Hampshire, over south branch, Patowmac, -	5	5
From Isaac Parsons's, over the south branch of Patowmac, op- posite, - - - - -	6	6
From John Pankake's, Hampshire, over the south branch ditto, to Jacob Earfom's, - - - - -	5	5
From B. Rankin's over the Shenandoah, to the land of G. W. Fairfax, - - - - -	5	5
From Peter Harbout's, Loudoun, over Goose Creek, to the land of Dr. W. Selden, - - - - -	4	4
From Edward Snicker's at Williams's Gap, over the Shenandoah, opposite, - - - - -	5	5
From Cuthbert Bullitt's, over the mouth of Quantico, - - -	8	8
From J. Chenowith's, Hampshire, across Cacapon, opposite, to James Largent's, - - - - -	6	6
From Elias Poston's ditto, across to his land opposite, - - -	6	6
From C. Buck's, Frederick, across the north fork of Shenandoah, mouth of Passage Creek, to the land of Isaac Hite, opposite, -	5	5
From Thomas Buck's, to the lands of G. Harden and Rowley Smith, - - - - -	4	4
From Luther Martin's, Hampshire, across Patowmac, at the con- fluence of the north and south branches, opposite, - - -	6	6
From Jos. Berry's across the Shenandoah, opposite, - - -	5	5
From J. Chenowith's Hampshire, across great Cacapon Creek, opposite, - - - - -	6	6
From Conrad Glaze's, Hampshire, across south branch Patow- mac, to his land opposite, - - - - -	6	6
From Rees Prichard's, Hampshire, over the north fork of Great Cacapon, opposite, - - - - -	6	6
From Benjamin Edwards's, Goose Creek, Loudoun, over Pa- towmac, opposite, - - - - -	6	6
From John Hooe's, Prince-William, across Occoquan, to the old warehouse, - - - - -	4	4

Over Rappahannock and its Branches.

From Urbanna to Locust Point, - - - - -	4	4
From the lands of J. Chowning, Lancaster, to Urbanna, - - -	33	33
From Byrd's to Williams's, - - - - -	33	33
Over Piscataway Creek in Essex, - - - - -	4	4
Over Rappahannock Creek, Richmond county, - - - - -	4	4
From the landing of William Ritchie on Tappahannock to the Causey on the opposite side, - - - - -	17	17
From Fauntleroy's to the landing of William Ritchie, - - -	25	25
From Ley's land to Robinson's, - - - - -	8	8
From Leed's Town to the Causey opposite, - - - - -	8	8
From the Public Landing at Port Royal, to Gibson's warehouse landing, - - - - -	6	6
From Taliaferro's landing to Carter's, - - - - -	4	4
From Alexander's to Conway's - - - - -	4	4
From the wharf at Newport to Ball's landing, - - - - -	4	4
From Johnson's plantation, Spottsylvania, to Washington's in King George, - - - - -	4	4
From Fredericksburg warehouse landing to Hunter's landing, -	4	4
From Henry Fitzhugh's, Fredericksburg, to the land of Willi- am Fitzhugh, opposite, - - - - -	4	4
From Falmouth to the land of Francis Thornton, - - - - -	4	4

For a man For a horse
Cents Cents

From the land of William Richards, Stafford, to those of Simon Miller, Culpeper,	4	4
From the lands of Gawin Lawfon, Stafford, to Fielding Lewis's land, Spotsylvania,	4	4
From Port Royal in Caroline, to the lands of Francis Conway, vested in James Bowie, jun.	5	5
From the lands of Landon Carter, Culpeper, across at Nor-man's Ford,	4	4
From Francis Thornton's lands in Spotsylvania, to the town of Falmouth, opposite, across his bridge,	4	4
At Lowry's across Corotomon river,	6	6

On Pianketank River.

From Seaton's to the opposite shore,	8	8
From Turk's to the opposite shore,	5	5

On York River and its Branches.

From York town to Gloucester town,	13	13
From Cappaheosick to Scimino,	25	25
From the Brick House to Dudley's,	25	25
From West Point to Dudley's,	13	13
From Fox's in Gloucester, to Scimino over York river,	25	25
From Frazier's to the causey opposite,	8	8
From Mantapike on G. Brooke's land, to the causey on William Frazier's land,	8	8
From Waller's to Walkerton,	8	8
From Brick House to West-Point,	13	13
From Sweet-Hall to Claiborne Gooch's,	8	8
From the land of John Watkins, New-Kent, to Thomas Claiborne's land, King-William,	8	8
From Chamberlayne's to Claiborne's,	8	8
From the land of George Webb, to the opposite landing,	8	8
From Blackwell's to King's,	4	4
From Taylor's land to Nelson's,	4	4
From Philip Aylett's, at his warehouse across Mattapony opposite,	4	4
From Dabney's to Page's,	4	4

On James River and its Branches.

From Hampton to Brook's Point,	4	4
To Norfolk or Nansemond Town,	One	Doll.
From the Borough of Norfolk to Portsmouth or Washington	5	5
From Portsmouth to Washington,	5	5
From Hodsdon's over Pagan Creek to Smithfield	6	6
From Charles Fulgham's to Smithfield,	8	8
From Cockfield's Point, to Robert Peale's near Sleepy-Hole,	8	8
From Jeremiah Godwin's over the western Branch to James Benn's	6	6
From Benjamin Bafcomb's over Bennet's Creek, to James Buxton's,	6	6
From John Reid's over the Western Branch, to Jeremiah Godwin's,	4	4
From the lands of Lemuel Riddick, in Suffolk, to Jordan's,	6	6
From Hog-Island in Surry, to Higgason's Landing, so long as the ferry keeper shall keep up the bridge over Hog-Island Creek at his own charge,	21	21
From James-Town to Swan's Point, <i>vice versa</i> ,	21	21
From Cobham to James-Town, under the regulation of trustees to let the ferry, and superintend the boats,	21	21
From Edloe's land in Charles-City, to his land in James-City,	8	8
From Edloe's land in Charles City, to Armitstead's Point,	5	5
From Dancey's land in Charles-City, to Barretr's,	8	8
From Deloney's to Edloe's,	10	10
From Westover to Maycox's, or Coggin's Point,	10	10
From Bermuda-Hundred to Shirley,	8	8
From Bermuda-Hundred to City-Point,	25	25
From the land of Thomas Pierce, Smithfield, across Pagan Creek, to the land of William Hodsdon,	17	17

	For a man	For a horse
	Cents	Cents
From the land of William Black, Chesterfield, over James River to Rocketts,	6	6
From the land of David Ross, Bedford, across James River at the mouth of Archer's Creek, to the land of R. Bolling,	4	4
From William Anderson's, Botetourt, over James River to William Crow's shore,	4	4
From the lands of William Pride, over Persie Stile's Creek, to the land of Peter Baugh,	4	4
From the land of Henry Trent, Amherst, over the Fluvanna, to the land of Nicholas Davies,	4	4
From Nicholas Lewis's, Albemarle, across the Rivanna,	4	4
From Charles Woodson's, in Henrico, to Tarlton Woodson's, Chesterfield,	6	6
From Bolling's Point, over Appamattox River,	3	3
From the lands of Henry Batte, Henrico, to the glebe lands, Verina,	5	5
From Charles Ellis's to Daniel Weldon's,	4	4
From the land of Reuben Coutts, in Richmond, to Manchester Town,	6	6
From the upper landing in Beverly Town, to the land of Anderson Britton,	4	4
From the land of Matthew Woodson, to the Manacon Town,	4	4
From the land of Benjamin Jude, to the land of William Reynolds,	4	4
From the land of Samuel Woodson, to the land of Jacob Michaux,	4	4
From the land of John Woodson, below the mouth of Willis's creek, to his lands on the opposite side of the river,	4	4
From the point of the fork of the Fluvanna and Rivanna Rivers, across the Fluvanna, to the lands of Joseph Mayo, deceased,	4	4
From the point of the fork of the Fluvanna and Rivanna rivers, across the Rivanna, to the lands of David Ross,	3	3
From the said lands of David Ross, to the lands of Joseph Mayo, deceased,	4	4
From the lands of John Harvie, across the Rivanna, to the lands of David Ross,	4	4
From the lands of David Ross, across the Fluvanna, to his lands on the opposite shore,	4	4
From John Lynch's, Bedford county, across the Fluvanna,	4	4
From the land of John Nicholas, over Slate river,	4	4
From the land of John Scott, over the Fluvanna, to the lands of Randolph Jefferson,	4	4
From the land of William Howard, over Rockfish river, to his lands opposite,	4	4
From ditto, over the Fluvanna, to Thomas Anderson's landing, and from said Anderson's to Howard's,	4	4
From the land of Nicholas Cabell, in the county of Amherst, at the mouth of Swann creek, over the Fluvanna, to the land of Francis W. Spencer,	4	4
From the land of John Cabell, in the county of Buckingham, over the Fluvanna, to his land on the opposite shore,	4	4
From the land of Joseph Cabell Megginson, in the county of Buckingham, over the Fluvanna, to his land on the opposite shore,	4	4
From the land of G. Stovall, over the Fluvanna, to his land opposite,	4	4
From the land of William Crow, to the land of Andrew Boyd, Botetourt, over James river,	4	4
From the land of John Buchanan's heirs, to his lands opposite,	4	4
From Branch's, on James river, to the opposite shore,	4	4
From the land of Jacob Michaux, to the land of Thomas Atkins,	4	4
From the land of Wilson Cary Nicholas, across the Fluvanna, to the lands of John Hardy,	4	4
From the lands of Henry Martin, jun. Fluvanna, over the north fork of James river,	6	6

	For a man. Cents	For a horse. Cents
From the lands of John Grymes, deceased, over the west branch of Elizabeth river, to the land of M. Warren opposite,	6	6
From Richmond to Manchester, over Mayo's bridge,	6	6
<i>Over Nottoway River.</i>		
From Thomas Drew's land, to Dr. Browne's,	4	4
From Bolton's land, to Simmons's land,	4	4
Over the toll-bridge in Southampton,	4	4
<i>On Roanoke River and its Branches.</i>		
From Skipwith's land, Mecklenburg, to the opposite shore,	4	4
From the land of John Dix, Pittsylvania, across the Dan river, to his land opposite,	4	4
From Anderson's land, to Taylor's land,	4	4
From the land of sir Peyton Skipwith on the north side, to his land on the south side, over the rivers Staunton and Dan,	4	4
From Maynard's to Field's,	4	4
From Samuel Jones's land, to Frederick Jones's land,	4	4
From Fox's land, to Blanton's land,	4	4
From Ross's land, to Royster's land,	4	4
From William Black's land, to the opposite shore,	4	4
From Hunt's land, to Abney's land,	4	4
From the land of Edward Booker, Halifax, to the land of John Fuqua, Charlotte,	4	4
From Black's land, to Brua's ford,	4	4
From Simms's land in Halifax, to Randolph's land, across Staunton river,	4	4
From Morton's landing, to Watkins's,	4	4
From the land of Edward Mitchell, Mecklenburg, across the Roanoke, to the land of Christopher Haskins,	4	4
From John Flin's, across Staunton river, to Thomas Hoard's, opposite,	4	4
From Cargill's in Charlotte, to Foushee's land, Halifax, over Staunton river,	4	4
From Watkins's to Murphy's,	3	3
From Irving's landing across Dan river, to Davenport's,	4	4
From John Bibb's across Staunton river, to the opposite shore,	4	4
From Cole's to Fuqua's,	4	4
From Boyd's to Hopson's,	4	4
From the lands of John Owens, Pittsylvania, over the Dan, to Sylvester Adams's land,	4	4
From the land of Margaret Boyd, over Dan, to her land opposite,	4	4
From the land of Nathaniel Terry to Fuqua's,	4	4
From Dix's to Green's,	4	4
From Harman Miller's, Halifax, to Legrand's over Dan river,	4	4
From Jones's in Halifax, to Selden's opposite, across the Dan,	4	4
From David Brandon's over Dan, to the land of John Lawson,	4	4
From John Boyd's over Dan, to the land of Patrick Boyd,	4	4
From the land of Joseph Eckolls, Halifax, across Staunton river, opposite,	4	4
From Wade's over Staunton, to the opposite shore,	4	4
From John Ward's, over Staunton, Bedford, to his land opposite,	4	4
From John Canefax's, Campbell, across Staunton, to Ward's opposite,	4	4
From J. Harper's, across the Meherrin, over his bridge,	3	3
From the land of William Gee, across Meherrin, to his land opposite,	3	3
<i>Ferries on the Ohio river and its branches.</i>		
From the lands of Van Swearingen, Ohio county, across the Ohio,	8	8
From the land of David Chambers, Ohio county, across the Ohio opposite,	8	8
From the land of George Cox, Ohio county, across Ohio opposite,	8	8
From the land of Absalom Wells, Ohio county, across the Ohio opposite,	8	8

	For a man. Cents	For a horse. Cents
From the land of Reason Pomfrey, Ohio county, across the Ohio opposite,	8	8
From the land of Jonas Minser, Ohio county, across the Ohio opposite,	8	8
From the lands of Jesse Martin, across Monongahela, to the land of James Hord, on the opposite shore,	4	4
From the land of Jesse Martin, across Monongahela, to the shore of David Scott,	4	4
From the lands of James Cleland, Monongalia, across Cheat river,	4	4
From the lands of Andrew Ramsay, Monongalia, across to William Morgan's, and from Morgan's to Ramsay's, the same,	4	4
From Josiah Prickett's, Monongalia, across the Monongahela opposite,	4	4
From Robert Wood's, Ohio, across the Ohio, opposite,	8	8
From the land of John Henderson, Ohio, across the Ohio, opposite,	8	8
From the lands of Isaac Williams, Harrison county, across the Ohio above and below the mouth of the Muskingum,	8	8
From the lands of Thomas Evans, across the Monongahela, at the mouth of Decker's creek, opposite,	4	4
From the lands of John Pettyjohn, Monongalia, across Tyger Valley river,	4	4
From the lands of Andrew Jee, over Cheat river, to Jacob Scott's shore,	4	4
From the land of Thomas Butler, over Cheat river, to his land opposite,	4	4
From the land of Samuel Morton, Monongalia, across Big Sandy creek, to the land of John Connor, senior, opposite,	4	4
From the land of George Jackson, Harrison county, over Elk creek opposite,	3	3
From the land of John Wickvine, Harrison county, over Tyger Valley river,	4	4
From the lands of John Jones, Ohio county, across the Ohio, opposite,	8	8
From the lands of David Scott, across Monongahela river, opposite,	4	4
From the lands of Charles Prather, Ohio, across the Ohio, to the opposite shore,	8	8
From the lands of Charles Prather, Ohio, across the mouth of Buffalo creek, to the opposite shore,	3	3
From the lands of Edward Duling, deceased, Ohio county, over Ohio river, opposite,	8	8
From the lands of Edward Duling, across the mouth of Fishing creek, to the land of Robert Woods,	3	3
From the lands of Robert Woods, Ohio, across the Ohio, opposite,	8	8
From the lands of George Hollinbough, Monongalia, across Monongahela, to the land of Asa Holl,	4	4
From the lands of Thomas Lewis, Kanawha county, across Ohio river, to the land of Isaac Greyham, opposite,	8	8
From the lands of Thomas Lewis, across the Kanawha river, to the lands of Robert Henderson, opposite,	6	6
From the land of Cornelius Brown, in Montgomery, over New-river opposite,	4	4
From the lands of Samuel Pepper, at Buffalo pond, Montgomery, over New-river, opposite,	4	4
From the land of William Ingles, over New-river, to the opposite shore,	4	4
From the land of John Anderson, over Greenbrier river, to the opposite shore,	5	5
From the land of Austin and company, at the Lead Mines, Wythe, over New-river, to the opposite shore,	4	4
From the lands of Thomas Herbert, in Wythe, across New-river, to the opposite shore,	4	4
From the lands of Dudley Evans, Monongalia, over Monongahela river, to the lands of George Wilton.	4	4

For a man. For a horse
Cen s Cent

From the lands of John Collins, Monongalia, over Monongahela at the mouth of Robinson's run, opposite,	4	4
From the lands of James Caldwell, Ohio county, across the mouth of Wheeling creek, to the lands of Ebenezer Zane,	4	4
From the lands of Hezekiah Davison, Harrison county, over west fork of the Monongahela, to William Berkley's, opposite,	4	4
From the lands of Edward Jackson, Randolph county, across Buchanan river opposite,	4	4

II. THE rates of ferries kept opposite to those abovementioned, shall be governed by the same rates and rules.

Same rates, &c. at the opposite ferries.

III. THE transportation of the following things shall be at the rates following: For every coach, waggon, chariot, and the driver, the same as for six horses. For every four wheeled chaise, phaeton, and driver, the same as for four horses. For every two wheeled riding carriage, the same as for two horses. For every hoghead of tobacco, the same as for one horse. For every head of neat cattle, the same as for one horse. For every sheep, hog, goat or lamb, one fifth part of the ferriage for one horse.

Rates for wheel carriages.

Tobacco, cattle, sheep, goats, and hogs.

IV. IF the keeper of any ferry or toll bridge shall demand and take from any person, a greater sum for the ferriage or toll, than is allowed by this act, such offender shall forfeit to the person so overcharged, the ferriage or toll demanded and received, and two dollars for every such offence; recoverable before any justice of the peace of the county.

Penalty for taking greater rates.

V. THE court of every county or corporation wherein a ferry is, or shall be appointed, shall have, and is hereby declared to have authority of ordering and directing what boat or boats, and the number of hands which shall be kept at each ferry respectively, and the owner of the land whereon any such ferry is, if he hath not already given bond and security, shall within six months from the commencement of this act, give bond with one security, in the court of the county or corporation wherein such ferry is, in the penalty of sixty dollars, with condition, that he will duly keep such ferry, or cause the same to be kept according to law, and will give immediate passage to all public messengers and expresses, when required, from time to time. And in case any such person shall neglect or refuse to give such bond, or to cause the same to be given on his behalf, he shall forfeit and pay seven dollars for every month's refusal or neglect to the governor for the time being, and his successors, for the better support of the contingent charges of government, recoverable with costs, in any court of record, where the same shall be cognizable.

County courts to direct the number of boats &c. hands, &c.

Owners of ferries to give bond and security.

VI. ALL expresses sent on public service by a member of the council, or commander in chief, general or field officer, to the governor for the time being, or the commanding officer of the militia in the next county, to give intelligence of the approach of an enemy, shall be accounted public messengers and expresses, and ferry free, within the condition and meaning of the bond aforesaid, in case the dispatch carried by such express, be endorsed "on public service," and signed on the superscription by the person sending the same.

Public expresses to be ferry free.

VII. AND for encouragement of ferry keepers, and in consideration of fees, over public messengers, and the persons exempted by this act: *Be it further enacted*, that all the men attending the said ferries be free of county levies, and from all other public services of musters, constables, clearing highways, impressments and other things of like nature, and that keepers of ferries shall not be chargeable with any fee for giving bond; and if the county or corporation court shall find it requisite or useful that an ordinary be kept at any ferry, they may license such ferry-keeper to keep ordinary, without any fee for the license, or obtaining the same, notwithstanding there be a sufficient number of other ordinaries in the same county or corporation. *Provided always*, that every ferry-keeper so licensed to keep ordinary, shall give bond and security, and be liable to the same penalties as other ordinary keepers. And if any other person whatsoever shall for reward, set any person or persons over any river or creek, whereon public ferries are by this act appointed, he or she so offending, shall forfeit and pay twenty dollars for every such offence, one moiety to the ferry-keeper nearest the place where such offence shall be committed, the other moiety to the informer; and if such ferry-keeper informs, he shall have the whole penalty; to be recovered with costs.

Men attending ferries to be free from levies, musters, &c.

Owners may be licensed to keep ordinaries without fee.

Penalty on other persons taking ferriages.

VIII. IT shall be lawful for the court of the county of *Norfolk*, to let Court of Norfolk coun-

to let ferrie across
Elizabeth river annually

County courts may es-
tablish ferries opposite
to those now appointed.

For what causes ferries
heretofore established
shall be discontinued.

For what causes those
heretofore established shall
be discontinued.

The owners to be sum-
moned on complaint to
shew why they should
not be discontinued.

Ferry keepers may con-
vey passengers, &c.
from either side to the
other.

Repealing clause.

Commencement of this
Act

annually to the highest bidder, the ferries across *Elizabeth* river and the branches thereof, taking bond and good security for due payment of the money, and to apply the same as it may be received, towards lessening the county levy.

IX. WHERE there is no ferry corresponding to one appointed by this act, it shall be lawful for the court of the county to constitute an opposite ferry, with the same rates. And the courts are empowered to appoint ferries over such rivers and creeks in their respective counties, as shall be deemed convenient and necessary.

X. ALL ferries heretofore established, and which have not been generally frequented for the space of two years, shall be, and the same are hereby discontinued, unless the persons entitled to keep the same, shall within six months after the passing of this act, procure all necessary boats and ferrymen, for the transportation of passengers at their respective ferries.

XI. ALL ferries now established, and which may be hereafter generally disused and unfrequented for the space of two years, shall be likewise discontinued unless necessary boats and ferrymen are prepared for the same, within the space of six months, after the expiration of the said two years. And all ferries which may be hereafter established, and which shall not be furnished with necessary boats and ferrymen within the space of six months after the establishment thereof, or shall at any time thereafter be generally disused and unfrequented for the space of two years, shall be, and the same are hereby discontinued.

XII. AND it shall be lawful for the court of the county in which such ferry or ferries shall be, on complaint to them made, to summon the proprietor or proprietors of the same, to shew cause why it shall not be discontinued, and to decide according to the testimony adduced.

XIII. IT shall and may be lawful for any keeper of a ferry, to take into his boat or boats any passenger or passengers, carriages, horses, or cattle of any kind whatsoever, on either side, to convey them over, and to receive the ferriage for the same; any law, usage, or custom to the contrary, notwithstanding.

XIV. ALL and every other Act and Acts, clause and clauses of Acts, heretofore made for, or concerning any matter or thing within the purview of this Act, shall be, and are hereby repealed.

XV. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. CXVII.

An Act reducing into one, the several Acts for regulating the Inspection of Flour and Bread.

[Passed the 21st of December, 1792.†]

Preamble.

I. WHEREAS the laws heretofore made for the inspection of flour, have been found defective, and it has become necessary to adopt some regulations for the prevention of frauds in the exportation of bread: a

Inspectors of flour to be
appointed.
Places of inspection.

II. BE it therefore enacted by the General Assembly, That one inspector of flour shall be appointed at each of the following places, to wit:—*Alexandria, Frederickburg, Richmond, Petersburg, Blandford, West Point, Newcastle, York, Falmouth, Port-Royal, Hobb's-Hole, Colchester, Dumfries, Manchester, Osborne's, Pocahontas, Nomany, Broadway, Low-Point in Surry, Suffolk, Hampton, South-Quay, Norfolk, Morgan's Town, Smithfield, Fort-Wheeling, Lynchburg, Hanover-Town, Portsmouth, Cumberland-Town, at the mouth of Buffalo Creek, on the lands of Charles Pratner, and at the mouth of Short Creek, on the lands of David Chambers, in the county of Ohio.*

Inspectors how to be
appointed.

III. THE courts of the several counties in which the places aforesaid are situated, shall at their courts held in the months of *September* or *October* in every year, nominate and appoint a person of good repute, and who is a skilful judge of the quality of flour, to be inspector of flour at each of the places aforesaid. In case of the death of any person so appointed, or his refusal or neglect to act, the justices of the said counties respectively, or any three of them, shall as soon as conveniently may be thereafter, meet together and appoint some other person in the room of the one so dead, or refusing or neglecting to act, who shall execute the duties of his office, until the next court held

† Amended, in 1792, and in 1795, ch. 7, pa. 11. Also Dec. Sess. 1801, ch. 10, pa. 14. (A) 1737, ch. 30

for the county, where such vacancy may have happened; and at such court the justices shall appoint in manner before directed, some person to be inspector of flour for the residue of the year. If any of the said courts shall neglect to appoint such inspector at the time directed by this act, the governor, with the advice of the council, may supply such vacancy; and the person so appointed, having taken the oath herein after mentioned, before a justice of the peace, shall continue in office during the same time, and have the same power and authority as if he had been appointed by the court of the county.

IV. ALL bolted wheat flour, and every cask thereof, brought to any of the places before mentioned for exportation, shall be made by the miller or manufacturer thereof, merchantable and of due fineness, and without any mixture of coarser flour, or the flour of any other grain than wheat.

Wheat flour not to be mixed with any other.

V. ALL bread and flour casks which shall be brought to any of the places before mentioned for exportation, shall be well made, of good seasoned materials, tightened with ten hoops, sufficiently nailed with four nails in each chine hoop, and three nails in each upper bilge hoop; and the flour barrels shall be of the following dimensions, to wit: the staves shall be twenty-seven inches in length, and the heads seventeen inches and a half in diameter; and half barrels shall be of the following dimensions, to wit: the staves shall be of the length of twenty-three inches, and the diameter at each head of twelve inches and a half.

How barrels to be made.

VI. EVERY miller of flour and baker of bread for exportation, shall provide and keep a distinguishable brand-mark, with which he shall brand every cask of flour and bread, and mark thereon the tare and nett weight, before the same shall be removed from the place where it was bolted or baked, under the penalty of forty-two cents for every cask of flour not hooped and nailed as aforesaid, and for every cask of flour or bread so removed, and not branded and marked as aforesaid, to be recovered from such miller or baker, who shall neglect to comply with the directions of this act, or from the person who brings such flour or bread to any of the places aforesaid for sale; and in case the penalty aforesaid shall be recovered from the person bringing the said flour or bread for sale, such person shall and may recover the same from the miller, baker, or bolter, from whom such flour or bread was purchased or received; provided that it appears that he gave notice to such miller, baker, or bolter, that he intended to carry the same to one of the places before mentioned for sale or exportation, and that he requested such baker, miller, or bolter, to secure and brand the said barrels.

Millers and bakers to keep brand marks.

Penalty for removing flour and bread not hooped, nailed, and branded.

VII. EVERY miller and bolter shall put into a barrel the full quantity of one hundred and ninety-six pounds of flour, and shall put into every half barrel the full quantity of ninety-eight pounds of flour; and if any one of them shall put a smaller quantity of flour into any cask than is directed by this act, he shall forfeit for the deficiency of every pound under three, eight cents, and for the deficiency more than three, seventeen cents.

Contents of casks of flour.
Penalty for deficiency in the weight.

VIII. ALL casks wherein bread shall be packed, shall be weighed and the tare marked thereon; and if any person shall put a false or wrong tare on any cask of bread, to the disadvantage of the purchaser, he or she shall forfeit for every cask so falsely tared, eighty-three cents; and the inspector, or his assistants, upon suspicion, or at the request of the purchasers, shall, and he is hereby required, to unpack any cask of flour or bread; and if there shall be a less quantity of flour than is above directed, or if the cask wherein bread is packed, shall be found to weigh more than is marked thereon, the miller, baker, or bolter (as the case may be) shall pay the charges of unpacking and repacking, over and above the penalties aforesaid; but otherwise the said charges shall be paid by the inspector, or by the purchaser, if the trial be made at his request.

Casks of bread to be weighed and tare marked thereon.

Inspector may unpack flour suspected to be falsely packed.

IX. EVERY baker of bread for exportation, shall deliver with the said bread a manifest of the contents thereof, with his brand marked thereon, and his name subscribed thereto, under the penalty of seven dollars for every manifest delivered contrary thereto; and if any cask of bread be found lighter upon trial, than is set down in the manifest, he shall forfeit for every pound deficient, in the same proportion as is heretofore directed as to flour.

Bakers to deliver manifests with brand intended to be exported.

Penalty for deficiency in the weight.

X. ANY cask of flour brought to any of the places before mentioned, to be from thence laden or shipped for exportation, shall be submitted to the view and examination of the inspectors at such place, who shall inspect and try the same, by boring through the head with an instrument, not exceeding half an inch in diameter, to be by him provided for that purpose; and if he shall judge that the same is well packed and merchantable according to the directions of this act,

Flour to be inspected and tried.

Marks when inspected.

Fee for inspection.

Inspector to condemn unmerchantable flour.

But the proprietor may have it reviewed.

Penalty for exporting condemned or unmerchantable flour.

Penalty for packing flour, &c. in old casks which have been branded and marked.

When flour may be inspected at merchant mills.

shall plug up the hole and brand the cask in the quarter, with the name of the place at which he is inspector, with a public brand-mark to be provided for that purpose; and shall also brand and mark the degree of fineness, which he shall, on inspection, determine the said flour to be of, which degree shall be distinguished as follows, to wit: Superfine, fine, middling, ship-stuff; for which trouble the inspectors at *Alexandria, Frederickburg, Falmouth, Richmond, Manchester, Petersburg, Pocahontas, and Blandford*, shall have and receive of the owner of such flour, the sum of two cents for each cask, and at every other place of inspection, the inspectors shall be allowed three cents for each cask. No inspector shall pass any flour which shall prove on examination to be unmerchantable, according to the true intent and meaning of this act; but shall cause the same to be marked on the bilge with the word "condemned," or secure it for a further examination, if required, which examination the owner shall procure to be made within twenty days, and the inspector shall and may demand and receive from the owner or owners thereof, the same rate and prices as if the same had been passed. When any person shall think himself aggrieved by the judgment or want of skill in an inspector, in rejecting flour as unmerchantable, it shall be lawful for such person to apply to a justice of the peace, who shall at the charge of the complainant, issue a warrant directed to three indifferent persons, well skilled in the manufacture of flour, to view and examine the same; which said three persons having taken the same oath or affirmation, as by this act is hereinafter directed to be taken by every inspector of flour, shall carefully view and examine the same, and if they or any two of them shall pass and declare the same to be merchantable, in such case the inspector shall erase out the word "condemned," and put such brand on the said flour, as they or any two of them shall direct, and shall re-pay to the complainant his costs; but if on such review the judgment of the inspector shall be confirmed, in such case the owner of the flour shall pay the cost of such review; and the said inspector for his trouble, shall and may receive three cents for each cask by him received, in case his judgment shall be confirmed. It shall not be lawful for any person to export or lade on board of any ship or vessel for exportation, out of this state, any cask of flour marked "condemned," by an inspector; or to export or lade on board of any ship or vessel for exportation, from any port or place within this state, any casks or barrels of flour not inspected or branded as aforesaid, on pain of forfeiting ten dollars for every cask or barrel exported or laden on board any ship or vessel for exportation.

XI. AND whereas complaints have been made that evil disposed persons have packed flour and meal in old casks which have been branded agreeable to this act, by which means that valuable staple is often injured at foreign markets: *Be it enacted*, that if any person shall pack flour or meal of any kind whatsoever, in a cask which has been inspected and branded with the name of a miller, such person shall forfeit and pay twenty dollars for every barrel so falsely packed for sale, to be recovered by petition and summons in any county or corporation court, one half to the use of the informer, and the other half to the miller who has been injured by such false packing; and shall also be liable to the action of the party aggrieved.

XII. *PROVIDED nevertheless*, That where any mill for the manufacturing of flour shall be situated on navigable water, below the falls, it shall be lawful for the owner of such mill to require the inspector of flour, who resides the nearest thereto, to attend and inspect the flour manufactured by him, and the inspector or his deputy is hereby required to inspect and brand all such flour, in the same manner as if such flour had been carried to the place at which he is inspector, and the proprietor may thereupon export the same in like manner, as if it had been inspected at any of the before mentioned places.

XIII. EVERY inspector of flour before he enters on the execution of his office shall make oath or affirmation—

THAT he will without favor, affection, malice or partiality, carefully inspect all flour brought to him, and which he shall be required to examine; that no flour shall be passed or branded by him without his inspecting the same; that he will not brand, or cause to be branded, as passed, any cask or casks of flour, that do not appear to him to the best of his skill and judgment, to be sufficiently clean, well ground, sweet and merchantable; that he will mark on all casks of flour the degree thereof, according to the directions of this act; that he will carefully examine the casks in which flour brought for inspection shall be contained; and that he will not pass or brand any such cask, unless they be of such size, goodness and thickness, as by this act required.

XIV. NO inspector of flour shall directly or indirectly purchase any flour by him condemned, or any other flour whatsoever, other than for his own use, under the penalty of seven dollars for every barrel by him purchased.

XV. IF any person shall alter the mark stamped on any cask of flour by an inspector; or shall mark or brand any cask of flour which has not been inspected, with any mark or brand similar to, or in imitation of an inspector's mark or brand, or after an inspector shall have passed any cask of flour as merchantable, shall pack into such cask any other flour, or after any cask of flour shall be branded "condemned," shall unpack and repack the same in other casks for exportation, such person shall forfeit and pay the sum of seven dollars for every cask.

XVI. IF the quantity of flour which shall be brought to any of the above mentioned places for inspection, shall at any time be so great that the inspector cannot alone examine the same with sufficient dispatch; or if through sickness the inspector shall be incapable of discharging the duties of his office, on such occasions, it shall be lawful for him to appoint one or more persons of good repute, and good judges of the quality of flour to assist him in the execution of his office. Such assistants having taken the oath or affirmation prescribed by this act to be taken by an inspector, shall be authorised to inspect and brand any flour in the same manner as the inspector may do.

XVII. THE courts of the several counties in which the before mentioned places are situated, may at any time remove from office any inspector of flour for neglect of duty, malfeasance, or corrupt practices, and may supply the vacancy occasioned thereby, by appointing another inspector for the residue of the year.

XVIII. THE penalties and forfeitures imposed by this act may be recovered by the informer before a single magistrate, where the penalty does not exceed five dollars, and where they are over that sum, but do not exceed twenty dollars, the same shall be recovered by petition in the same manner as is by law directed in case of petitions for the like sum of money, and where the penalty incurred shall exceed the sum of twenty dollars, the prosecutor may sue for the same in the court of the county, or corporation, where the defendant resides, or where the offence was committed, one half of which said penalties and forfeitures shall accrue to the use of the informer, and the other half to the use of the commonwealth, if not otherwise appropriated. The prosecutor may make oath before the justice of the peace, of the nature of the action, and that he verily believes the defendant hath incurred the penalty and forfeiture thereby demanded, which the clerk upon a certificate thereof to him produced, shall endorse upon the back of the writ, and thereupon the defendant shall be ruled to give special bail.

XIX. ALL acts or parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements which have accrued, been vested, or incurred prior to the commencement of this act.

XX. THIS act shall commence and be in force, from and after the passing thereof.

Not to purchase flour.

Penalty for altering the mark of flour.
For marking uninspected flour.

For packing other flour in casks marked.

For packing condemned flour in other casks.

When inspectors may appoint deputies.

How they may be displaced.

Penalties how recoverable.

Defendants may be ruled to give special bail.

Former acts repealed.
Provided.

Commencement of this Act.

CHAP. CXVIII.

An Act directing the mode of suing out and prosecuting Writs of Habeas Corpus.
[Passed the 19th of December, 1792.]

I. **B**E it enacted by the General Assembly, That whensoever a *habeas corpus* shall be served by delivering it to the officer or other person to whom it is directed, or by leaving it at the jail or prison in which the party suing it out is detained, unless the warrant of commitment plainly and specially express the same to have been for treason or felony, if the charges of bringing the prisoner, to be ascertained by the court or judge who awarded the writ, and thereon endorsed, not exceeding seventeen cents *per* mile, be paid or tendered, and sufficient security to pay the charges of carrying him back, in case he be remanded, and that he will not escape by the way, be given, then the officer, or his deputy, within three days after such service, or if the prisoner is to be brought more than twenty miles, within so many days more as will be equal to one day for every twenty miles of such further distance, shall make return of the

Duty of officers and others to whom writs of *habeas corpus* are directed.

Charges of conveying the prisoner before the court, &c. to be tendered to them.

+ See ante, District Court law, sec. 22. See County Court law, sec. 67.

writ, and bring the body of the prisoner, or cause it to be brought, before the proper judge or judges, according to the command thereof; and then shall likewise certify the true causes of his detainer or imprisonment.

By whom such writs shall be signed.
How they shall be obtained.

II. EVERY such writ shall be signed by him who awards it.

When and before whom returnable.

How the prisoner when brought before the judge shall be discharged

III. AND if any person shall be, or stand committed or detained as aforesaid for any crime, unless it be for treason or felony, plainly expressed in the warrant of commitment, in the vacation time, the prisoner not being convicted, or in execution by legal process, or any one on his behalf may appeal and complain to the judge of the high court of chancery, or any judge of the general court, who at the request of such prisoner, or other person on his behalf, attested by two witnesses present at the delivery thereof, is hereby authorized upon view of a copy of the warrant of commitment or detainer, or otherwise upon affidavit made, that such copy was desired to be given by him in whose custody the prisoner is detained, to award and grant a *habeas corpus*, to be directed to the officer in whose custody the party committed or detained shall be, returnable immediately before the said judge, or any other judge of one of the said courts; and upon service thereof as aforesaid, the officer or his deputy, in whose custody the party is so committed or detained, shall within the times before respectively limited, bring the prisoner before the court, or one of the judges thereof before whom the writ is made returnable, or in case of his absence, before any other of them, with the return of the writ, and the true causes of commitment and detainer; and thereupon the judge before whom the prisoner shall be brought, shall, within two days thereafter, discharge him from imprisonment, taking his recognizance, with surety in any sum, according to the discretion of the judge, having regard to the circumstances of the prisoner and nature of the offence, for his appearance in the court of the district the term following, or in some other court where the offence is properly cognizable, as the case shall require; and then also certify the said writ with the return thereof, and the said recognizance into the said court where such appearance is to be made; unless it shall appear to the judge, that the party so committed is detained upon a legal process, order or warrant, out of some court that hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal of any of the said judges, or some justice of the peace, for such matters or offences, for the which by the law the prisoner is not bailable.

When writs of *habeas corpus* shall not be granted in vacation.

Penalty on the officer for disobeying the writ, &c.

IV. IF any person shall have wilfully neglected, by the space of two terms after his imprisonment, to pray a *habeas corpus* for his enlargement, such writ shall not be granted to him in vacation in pursuance of this act.

V. ANY officer neglecting or refusing to make the return aforesaid, or to bring the body of the prisoner according to the command of the writ within the time aforesaid, or not delivering a true copy of the warrant of commitment and detainer within six hours after demand thereof made, to the prisoner, or person demanding it on his behalf, which copy the officer or his deputy is hereby required to deliver, shall forfeit to the prisoner three hundred dollars; to recover which, the right of action shall not cease by the death of either or both the parties.

No person to be again committed for the same offence after a discharge on a *habeas corpus*.

VI. NO person who shall have been delivered upon a *habeas corpus*, shall afterwards be imprisoned or committed for the same offence, otherwise than by the order or process of the court wherein he shall be bound by recognizance to appear, or some other court having jurisdiction of the cause.

Prisoners not to be removed from the custody of one officer to another, except in particular cases.

VII. A CITIZEN of this commonwealth committed to prison in custody of an officer for any criminal matter, shall not be removed from thence into the custody of another officer, unless it be by *habeas corpus*, or some other legal writ, or where the prisoner shall be delivered to the constable, or other inferior officer, to be carried to some common jail, or shall be sent by warrant of an overseer of the poor to some common work-house, or shall be removed from one place to another, within the same county, in order to his discharge or trial in due course of law; or in case of sudden fire or infection, or other necessity, or where the prisoner shall be charged by affidavit with treason, felony, or other crime, alledged to be done in any other of the United States of America; in which last case he shall on demand from the Executive authority of the state from which he fled, be sent thither in custody by order of the general court, or warrant of any two judges thereof in vacation time, or may be bound by recognizance with sureties before them, to appear there, whichsoever shall seem most proper, if the said court or judges, upon consideration of the matter, shall think he ought to be put upon his trial.

VIII. ANY person as aforesaid, may move for and obtain his *habeas corpus* as well out of the high court of chancery as out of the general court, or out of the court of that district wherein he shall be confined. And if any judge of either of the said courts in the vacation time, upon view of the copy of the warrant of commitment or detainer, or upon affidavit made, that such copy was denied as aforesaid, shall refuse any writ of *habeas corpus*, by this act required to be granted, being moved for as aforesaid, such judge shall be liable to the action of the party grieved.

Writs of *habeas corpus*, by whom they may be granted.
Penalty on a judge refusing to grant one.

IX. ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause

X. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXIX.

An Act for improving the Breed of Horses.

[Passed the 24th of December, 1792.]

I. **B**E it enacted by the General Assembly, That no person shall suffer a stoned horse of the age of two years, whereof he is owner, or hath the keeping, to run at large out of the inclosed ground of the owner or keeper; and whosoever shall wilfully or negligently do so, after having been admonished to confine such horse, shall forfeit and pay twenty dollars to him who will sue for it, and double that sum for any such transgression, after one conviction; and if after a second conviction, the same horse be found so running at large, it shall be lawful for the person who will take him up, to retain him to his own use. *a*

Penalties for suffering a stoned horse to run at large.

After a second conviction the person taking him up may retain him.

II. ALL and every act and acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause.

III. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXX.

An Act reducing into one, the several Acts making Provision for the Restraint, Support and Maintenance of Idiots and Lunatics, and the Preservation and Management of their Estates.†

[Passed the 24th of December, 1792.]

I. **B**E it enacted by the General Assembly, That the present directors of the hospital for the reception of persons of unsound minds, and their successors, to be chosen when vacancies happen, by the Governor, with the advice of the Council, are hereby constituted and appointed a body politic and corporate, to have perpetual continuance, by the name of the directors of the hospital for the maintenance and cure of persons of unsound minds; and by that name may sue, and be sued, and may and shall have, and use a common seal, and are enabled to take and hold any estate, real or personal, given or to be given to the said hospital, or to themselves, for the use thereof, so as the annual revenue, or income of such donations, exceed not three thousand dollars; any law or statute to the contrary notwithstanding. *b*

Directors of the lunatic hospital incorporated.

Annual income of the hospital not to exceed a certain sum.

II. THE said directors shall and may so often as it may be necessary, choose a president to continue in office until his death, resignation or removal; and they, or any seven of them, shall form a court, and shall from time to time ordain regulations for the government of the said hospital, and appoint a keeper and matron thereof, with nurses and guards when they shall be necessary; and provide for the accommodation, maintenance, and cure of the patients remaining and to be received therein.

Directors may choose a president:

Seven to form a court.

Keeper, matron, nurses, guards.

III. BY warrant to be directed to the sheriff or serjeant, a justice of the peace shall order to be brought before him, any person whose mind, from his own observation, or the information of others, he shall suspect to be unsound, and with two other justices, who at his request, shall associate with him, shall enquire into the state of such person's mind, and the said justices shall write down as well what shall appear to themselves, as what shall be testified by witnesses,

Justices to examine insane persons;

(a) 1785, ch. 73, sec. 1. † Amended Dec. sess. 1801, ch. 11. (b) 1788, ch. 56. 1785, ch. 87.

And sent them to the hospital, unless security be given for their restraint.

How to be received, examined and registered.

But may be delivered to their friends, giving security for their restraint.

Or discharged if the directors do not think it necessary to confine them.

Justices to send with an insane person a certificate of his estate.

Committees to be appointed to manage estates of insane persons.

Profits thereof to be applied to the support of them and their families.

Committees to give bond with security.

Penalty on the justices for neglect.

How a committee shall be appointed, where an insane person removes out of the state.

Infant infants to be examined and sent to the hospital.

touching the supposed insanity; and if two of them adjudge the party to be such a person as ought to be confined in the hospital, and some friend will not become bound with surety, to restrain and take proper care of him, or her, until the cause for confinement shall cease, the said justices, or two of them, shall order the insane to be removed to the said hospital and there received, and for that end direct a warrant to the sheriff or serjeant, and a mittimus to the said keeper, transmitting therewith to the latter, the examinations of the witnesses, and a relation of such facts as the said justices shall think pertinent to the subject, to be laid before the directors.

IV. THE said keeper immediately after the person removed shall be delivered to him, the receipt of whom he shall acknowledge, in a writing signed by him, and delivered to the sheriff or serjeant, shall inform the president thereof, who shall require his colleagues to meet as soon as may be, and at such meeting, which shall not unnecessarily be delayed, the directors, if having considered the case, they concur in opinion with the justices, shall register the insane as a patient, but they may at any time afterwards deliver him or her to a friend, becoming bound to restrain and take care of him or her, in the same manner as the justices might have done.

V. IF upon the examination of any person charged with being a lunatic or idiot, or otherwise insane, the said court shall be of opinion, that he or she ought not to be confined, it shall be lawful for the said court forthwith to discharge him or her. *a*

VI. WHEN any insane person shall be removed as aforesaid to the said hospital, the justices before whom such person was examined, shall cause a certificate of the estate of such insane person (if any there be) and of the probable annual profits arising therefrom, to be sent to the said directors, together with the proceedings before directed, to be transmitted to them; and shall also certify such removal, and the insane's estate, to the next court to be holden for the county, city, or borough, whence such removal was. On receipt of such certificate, it shall be lawful for such court, to appoint a committee, in whose hands shall be committed such insane's estate, for the safe keeping and good management thereof; which committee shall have power to sue for, and recover all debts due to, and be liable to be sued for all debts due from such insane person, in the same manner as executors to deceased persons are or may be; and out of the profits of such insane person's estate, the said court may direct to be defrayed, the expenses attending, as well the removal as the annual support of every such person while remaining in the said hospital, to be paid to the said court of directors. *Provided*, That such county, city, or borough court, may allow a reasonable support to the family of such insane person, (if any he hath) out of his estate, so that neither the expenses attending such insane person, nor the allowance to his family, shall defeat the claims of his or her creditors. Upon the appointment of any such committee by the court as aforesaid, such court shall take bond, with good security, in a sufficient penalty, for the true and faithful performance of the trust thereby reposed in them; and in case of failure in the examining justices to perform the duties by this act enjoined, or in case of failure in any such court, to appoint committees as aforesaid, and to take such bond and security as is hereby required, the justices in either case so refusing or neglecting, shall forfeit and pay for every such refusal or neglect, one hundred and fifty dollars, to be prosecuted for, and recovered by the attorney general in the name of the said court of directors, for the use of the commonwealth. *b*

VII. IF any person possessing lands or other property in this commonwealth, shall have removed, or shall hereafter remove out of the State, the high court of chancery, or the court of the county or corporation in which the greater part of such person's property is, (on satisfactory proof being made that such person has become insane) shall and may appoint a committee, into whose hands shall be committed such insane's estate, for the safe keeping thereof, and for the necessary support of such insane, and his or her family; which committee shall give the like security, have the same powers, and be governed by the same rules as are prescribed for the committees appointed by virtue of a certificate from justices of the peace, who have examined insane persons, agreeably to the directions of this act.

VIII. IN case an infant child or ward, be suggested by the parent or guardian of such infant child or ward, to be of unsound mind, the court of the common-

ty, city, or borough, wherein such person may reside, shall appoint three justices to examine into the state of his or her mind; and upon the report of the said justices, if the suggestion appears to be true, such court shall order the insane to be removed to the hospital, in the manner before directed, where he or she shall be received and registered. *a*

IX. THE expense of maintaining and endeavoring to cure a registered insane, shall be paid by the public, and reimbursed out of his estate, (if any such there be); and in case of an infant, not an orphan, shall be reimbursed by the parent, if of sufficient ability to support such infant; to be adjudged of, and certified by the court of that county where the parent resides, and may in either case be recovered by an action, in the name of the directors, who shall account for what shall thus come to their hands.

X. ACCOUNTS of expenses incurred in the execution of this act, as well as for repairing the hospital, and other necessary incidental works and services, shall be audited and discharged in the same manner as other public accounts.

XI. THE directors shall enlarge every person confined in the hospital who shall appear to them to be perfectly cured of insanity, and give such person a certificate thereof.

XII. A PERSON registered in the hospital, shall nevertheless, during the time of his or her confinement, be deemed an inhabitant of that county, in which was his or her legal settlement at the time of his or her removal to the hospital.

XIII. IN case of the absence of the president of the directors, the members present may choose a president, *pro tempore*. *b*

XIV. ANY director who shall remove to the distance of twenty miles or upwards, from the said hospital, shall be considered as having vacated his office.

XV. NOT more than two persons shall be paid as a guard for removing any insane person to the said hospital; which two shall have the same allowance made them for their services, as is at present allowed to guards employed in removing criminals, and who shall be paid by the court of directors, out of the monies appropriated for the use of the hospital. *c*

XVI. WHERE any person of unsound mind, is, or shall be seized or possessed of any lands, tenements, or hereditaments, in trust, or by way of mortgage, the committee appointed for the care of such person, on the petition of one or more of the parties interested, and after hearing them all, may execute any such deed, or perform any other such act, as the trustee or mortgagee, if he were of sound mind, might have executed or performed. And such deed or other act shall be as valid, except that he shall not be bound by a warranty or other covenant contained in the deed. Such committee may also make or take a surrender of a former lease, or take or make a new lease, as the case may require, and as it shall seem most for the advantage of such insane person; out of whose estate, any fine that may be advanced, and all other just expenses that may be incurred in order to obtain a new lease to him, shall be reimbursed, and the new lease shall not only be chargeable with such fine and expenses, but shall remain subject to all incumbrances which the lease surrendered would have been subject to. *d*

XVII. THE lands, tenements and chattels, of all idiots and lunatics whatsoever, shall be kept in like manner as is herein before directed, in the case of such as be sent to the hospital, safely, without waste or destruction; and they and their household, shall live and be maintained competently, with the profits of the same; and the residue, besides their sustentation, shall be kept for their use, to be delivered unto them when they come to right mind; and if they die in such state, their lands and chattels shall be distributed in the manner directed by the act, intituled, "*An act to reduce into one, the several acts directing the course of descents.*" *e*

XVIII. ALL and every act and acts, clause and clauses of acts, concerning any matter or thing within the purview of this act, are, and shall be henceforth repealed.

XIX. THIS act shall commence in force, from and after the passing thereof.

Expense of maintaining and curing registered insanes, how to be defrayed.

Hospital accounts to be audited and discharged as other public accounts.

Persons cured of insanity to be discharged.

Persons confined in the hospital to be deemed inhabitants of the counties from which they were removed.

Directors may choose a president *pro tempore*.

How directors shall vacate their seats.

Two guards allowed for removing an insane to the hospital.

Committees of insanes seized of lands in trust, may execute such deeds, &c. as the trustees could if of sound mind.

Estates of lunatics, &c not sent to the hospital to be kept as the estates of those who are.

Estates of persons dying insane, how to be disposed of.

Repealing clause.

Commencement of this act.

(a) 1785, ch. 87. (b) 1788, ch. 56. (c) 1790, ch. 12, sec. 4. (d) 1785, ch. 85, sec. 1. (e) 1785, ch. 68.

CHAP. CXXI.

An Act to regulate Impresses.†

[Passed the 24th of December, 1792.]

Officers and others making illegal impresses, to be apprehended and secured until discharged by due course of law.

Repealing clauses

Proviso.

Commencement of this act.

I. **B**E it enacted by the General Assembly, That if any officer, soldier, commissary, quarter-master, or other person, shall presume to take from any citizen or citizens of this commonwealth, any part of their property by way of impress, unless it be by warrant from the executive in case of actual invasion, or by the sheriffs or serjeants bringing criminals to a district court, or in such other cases as is or shall be expressly allowed by law, it shall be lawful for any magistrate in the county or corporation where the offence is committed, upon information on oath, to issue his warrant for the immediate taking and safe keeping of such offender or offenders, till they are delivered by due course of law; and all officers of the militia are hereby enjoined to support the civil power in securing and bringing such offenders to justice.

II. ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, (except as hereinafter provided) shall be, and the same are hereby repealed: *Provided always*, that nothing in this act contained shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

III. THIS act shall commence in force, from and after the passing thereof.

CHAP. CXXII.

An Act concerning tributary Indians.

[Passed the 24th of December, 1792.]

Tributary Indians not to sell their lands to any, other than persons of their own nation.

Penalty for purchasing or occupying their lands.

Indians rights and privileges to be secured to them.

Repealing clause. Proviso.

I. **B**E it enacted by the General Assembly, That it shall not be lawful for any Indian king, or any other tributary Indians whatsoever, upon any pretence, or upon any consideration, to bargain and sell, or demise to any person or persons, other than to some of their own nation, or their posterity, in fee, for life or for years, the lands laid out and appropriated for the use of such Indians, or any part or parcel thereof; or to bargain and sell as aforesaid, any other land whatsoever now actually possessed, or justly claimed, and pretended to by the said Indians, or any of them, by virtue of any articles of peace made and concluded with such Indians by this commonwealth, or by the government existing previous to the establishment of this commonwealth, or by virtue of any other right and title whatsoever; and every bargain, sale, or demise, hereafter made contrary to this act as aforesaid, shall be, and is hereby declared to be null and void to all intents, constructions, and purposes. *a*

II. IF any person or persons (other than the Indians and their posterity) shall from and after the publication of this act, presume to purchase or obtain any deed, or conveyance in fee, or any lease for years, from any of the tributary Indians, of any lands, tenements, or hereditaments, laid out or appropriated, or now actually possessed, or justly claimed, or pretended to by the said Indians, or shall occupy or tend any of the said lands by permission of the said Indians, or otherwise, every person so offending, and being thereof lawfully convicted in any court of record within this commonwealth, shall forfeit and pay the sum of one dollar and sixty-seven cents for every acre of land so purchased, leased, or occupied, and so for every year such person or persons may hold possession of such lands, by virtue of such purchase or lease; one moiety of which penalty shall accrue to the commonwealth, the other moiety to the informer; to be recovered by action of debt or information in any court of record within this commonwealth.

III. THE Indians tributary to this government, shall be well secured and defended in their persons, goods and properties; and whosoever shall defraud or take from them their goods, or do hurt or injury to their persons, shall make satisfaction, and be punished for the same according to law, as if the Indian sufferer had been a citizen of this commonwealth.

IV. ALL acts or parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, that nothing in this act shall

† Nov. 1781, ch. 36.

(a) 1705, ch. 14.

be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

V. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act

CHAP. CXXIII.

An Act declaring that Joint-Tenancy may be pleaded in Abatement.

[Passed the 19th of December, 1792.]

I. **B**E it enacted and declared by the General Assembly, That in all actions, real or mixed, which shall hereafter be brought for the recovery of any lands or tenements, within this commonwealth, if the tenant shall plead that he holdeth the tenements in demand, jointly with his wife, or any other person, not named in the writ, and shew forth a deed testifying the same, and demand judgment of the writ, and thereupon issue be joined, and it be found against the truth of the plea by him in manner and form aforesaid pleaded, the plaintiff shall recover his seizin of the tenements in demand, and double damages against the party by whom such plea shall have been pleaded; but if it be found that the matter aforesaid was truly and lawfully alledged by such defendant in his plea, the writ shall be abated. *a*

Tenant in real actions falsely pleading joint tenancy in abatement, liable to double damages.

II. *PROVIDED always*, That no such plea shall be admitted or received, in any case, unless the party offering the same, shall prove the truth thereof by oath or affirmation, as the case may require.

Such plea be sworn to.

III. ALL and every statute and statutes, act and acts, within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause

IV. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this Act.

CHAP. CXXIV.

An Act reducing into one, the several Acts concerning the Inspection of Lumber.

[Passed the 26th of December, 1792.]

I. **B**E it enacted by the General Assembly, That it shall be lawful for the courts of the several counties and corporations within this commonwealth, to appoint so many inspectors of lumber within their respective limits, as they shall deem necessary. *b*

Inspectors to be appointed.

II. THE inspectors so to be appointed, shall, before they enter on the execution of their office, give bond and security, in the sum of one thousand dollars, for the faithful performance of the duties of their office, and shall moreover take the following oath:— *c*

How qualified,

I, _____, do swear that I will well and truly demean myself as inspector of lumber, without favor, affection, or partiality. So help me GOD.

And the inspectors to be appointed by virtue of this act, shall in all cases be governed by the following regulations; that is to say, all drawn white oak hoghead staves, shall not be less than forty-two inches long, three inches wide, and three quarters of an inch thick, when green, and five eighths of an inch, if seasoned; white oak hoghead heading, shall be twenty-eight, thirty, and thirty-two inches in length, with a due proportion of each length, and five inches in breadth, seven eighths of an inch thick, when green, and three quarters of an inch, if seasoned; the staves and heading aforesaid, to be without sap: Red oak hoghead staves, shall not be of less dimensions than the white oak aforesaid: Rough hoghead staves shall be at least forty-two inches long, three and an half inches wide, and one inch thick: Barrel staves shall be at least thirty-two inches long, three and an half inches wide, and three quarters of an inch thick: Pipe staves shall be at least four feet and a half long, three inches wide, and one inch thick: Shingles shall not be less than eighteen inches long, four inches wide, and half an inch thick at the butt: And all plank, scantling, and ranging timber, shall be sound, and have square edges.

Length, breadth and thickness of staves and heading.

Of shingles. Plank, scantling, &c. to have square edges.

III. THE inspectors of lumber, shall be entitled to demand and receive the following fees: For all hoghead staves and heading, twenty-five cents per

Inspectors fees.

(a) 34, Edw. 1, ch. 1.

(b) 1787, ch. 18.

(c) 1786, ch. 98.

thousand: For all pipe staves, thirty-three cents *per* thousand: For all barrel staves, seventeen cents *per* thousand: For all shingles, six cents *per* thousand: For all plank and scantling, fifty-six cents *per* thousand: And for all ranging timber, forty-two cents *per* thousand, and no more; to be paid by the person offering the same for inspection; and the inspectors shall be continued in office during good behaviour.

Lumber not to be exported until inspected.

IV. IT shall not be lawful for any master, commander, or skipper of a vessel, to receive on board his ship or vessel, for exportation, any species of lumber enumerated in this act, without a note or certificate from some inspector of lumber, that the same has been duly inspected and passed; and the inspectors are hereby directed to give such note or certificate to the skipper of any small craft lading any such lumber, specifying when and where inspected, for whom, and the name of the ship or vessel exporting the same; and the collector or other proper officer of the customs of the district, is hereby charged and directed not to suffer any vessel to clear from his office, unless the master, commander or skipper of such vessel shall produce inspectors' notes or certificates for all lumber which he means to clear out, and shall also make oath, that he hath no lumber on board but what is particularly entered in his manifest. Any master, commander, or skipper of a vessel, who shall receive on board his vessel for exportation, any lumber herein enumerated, without first obtaining the inspector's note or certificate for the same, shall forfeit the lumber so taken on board, and sixty dollars, to be recovered by action of debt, before any court of record within this commonwealth; one half of which fine shall be to the use of the person suing for the same, the other half to the use of the commonwealth.

Vessels not to be cleared until the masters produce such certificates, and take an oath.

Penalty for exporting it without.

Repealing clause. *Provido.*

V. ALL Acts or parts of Acts, coming within the purview of this Act, shall be, and are hereby repealed. *Provided always,* That nothing in this Act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred, prior to the commencement of this Act.

Commencement of this act.

VI. THIS Act shall commence in force, from and after the passing thereof.

CHAP. CXXV.

An Act providing that the Exception of Non-tenure of Parcel, shall not abate the whole Writ.

[Passed the 19th of December, 1792.]

Exception of non-tenure of parcel, not to abate the whole writ.

I. **B**E it enacted and declared by the General Assembly, That by the exception of non-tenure of parcel, of any lands or tenements, for which any action or suit shall be brought, the writ shall not be abated, but for the quantity of the non-tenure which is alledged. *a*

Repealing clause.

II. ALL and every statute and statutes, act and acts, within the purview of this act, are, and the same shall be hereby repealed.

Commencement of this act.

III. THIS act shall commence and be in force, from the passing thereof.

CHAP. CXXVI.

An Act providing a Method to help and speed Poor Persons in their Suits.†

[Passed the 24th of December, 1792.]

Poor persons may sue out original writs, &c. without paying therefor.

I. **B**E it enacted by the General Assembly, That every poor person who shall have cause of action against any person within this commonwealth, shall have by the discretion of the court before whom he would sue, writ or writs original, and writs of *subpoena*, according to the nature of his cause, nothing paying for the same. *b*

The court shall assign them counsel.

II. THE said court shall direct their clerk to issue the necessary process, shall assign him counsel learned in the laws, and appoint all other officers requisite and necessary to be had for the speed of the said suit to be had and made,

(a) 25, Edw. 3, ch. 16. † Act of 1795, pa. 16, sec. 2, directs that whenever a person detained in slavery shall petition the court to sue in *Forma Pauperis*, counsel shall be assigned him to prosecute the suit, and that before process shall issue, the counsel shall make to the court a statement of facts, with his opinion, and if the court shall thereupon think proper, process to be issued, and complt. may be kept in custody of sheriff till the owner gives bond to have him forthcoming. (b) 1786, ch. 15.

who shall do their duties without any reward for their councils, help and business in the same.

III. ALL and every such poor person or persons, being plaintiff or plaintiffs in any such action or suit, so admitted by the court, shall not be compelled to pay any costs. *a*

When plaintiffs shall pay no costs.

IV. ALL statutes and acts, clause and clauses thereof, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause.

V. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXXVII.

An Act to reduce into one, the several Acts for regulating Pilots, and ascertaining their Fees. †

[Passed the 26th of December, 1792.]

I. **B**E it enacted by the General Assembly, That Paul Loyal, Edward Cooper, Charles Bayleys, James Latimer, James Cunningham, Francis Ballard, John Parish, and Edward Rudd, ‡ or any three of them, be, and they are hereby appointed to examine every person that shall desire to be admitted a pilot.

Examiners appointed.

II. EACH examiner before he enters on the duties of his office, shall take an oath before some court of record truly and impartially to execute the trust reposed in him. *b*

III. EVERY person applying to be examined, shall produce a certificate from the county or corporation court where he resides, of his honesty and good behaviour, satisfactory proof that he hath served as an apprentice to some branch pilot for the term of five years at the least, and that he is an inhabitant of this commonwealth; and shall moreover pay down to the examiners the sum of five dollars. And if upon examination, such person shall appear to be of sufficient skill and ability, the said examiners shall thereupon grant such person a branch, and thenceforth he shall be reputed a lawful pilot. *c*

Persons applying for examination to produce certain certificates to the examiners. Fee for examination. Branches to be given to those who are qualified.

IV. ALL pilots within this commonwealth, shall be arranged into three distinct classes, and distinguished by the numbers, first class, second class, third class; in order to effect which, in each branch hereafter to be granted, the said examiners shall distinguish to what class the pilot obtaining such branch shall belong. And if there be any pilots whose branches do not distinguish to which class the pilot holding it belongs, such pilot shall, on or before the first day of May next, surrender such branch to the examiners, who are hereby empowered and directed to issue a new branch to such pilot, without any additional fee or charge, distinguishing therein to what class such pilot shall in future belong. And if any pilot holding such branch shall not surrender the same by the time aforesaid, he shall forfeit his branch, and shall not be capable of exercising the office of a pilot under the same. *d*

Pilots to be arranged into three classes.

V. THOSE pilots belonging to the first class shall alone have power to take the charge and pilotage of every vessel of whatsoever burthen or description. Those belonging to the second class, shall be confined to the charge and pilotage of such vessels, whose draught of water does not exceed twelve feet. And those belonging to the third class, shall be confined to the charge and pilotage of vessels, whose draught of water shall not exceed nine feet.

To take charge of vessels according to their classes.

VI. EVERY person obtaining a branch and afterwards removing into another state, shall thereupon be disqualified and incapable of acting as a pilot; and if any person so disqualified shall presume to act, he shall be liable to the same penalty for each offence, as is imposed by this act, on such as violate the terms of their branch and respective class; to be recovered in like manner.

Removal out of the state, a disqualification.

VII. WHEN any branch pilot shall have an apprentice that in the opinion of the examiners shall be qualified to take charge and pilot a vessel, it shall and may be lawful for the examiners to give to such apprentice or apprentices a copy of his master's branch, and endorse thereon the name of the pilot-boat and the port to which she belongs, distinguishing the ability of the apprentice by classes as aforesaid; after which it shall not be lawful for any branch pilot to take from such apprentice any vessel he may have in charge.

Examiners may give to apprentices copies of their master's branches.

(a) 23, II. 8, ch. 15, sec. 2. † Amended Dec. sess. 1801, ch. 3. ‡ Several new examiners appointed this sess. (b) 1791, ch. 2. (c) 1786, ch. 32. 1791, ch. 25. (d) 16.

How pilots may be suspended and removed.

Names of the boat and port to be painted on the foresail.

Pilots must keep sufficient boats.

Penalty for piloting a vessel without having a branch and boat.

Proviso as to vessels in distress.

No more than four pilots to be in partnership.

Rules for masters of vessels and pilots.

Pilots losing vessels incapacitated and liable to damages.

Rates of pilotage.

VIII. IN case of the misconduct or misbehaviour in any pilot in the exercise of his business, it shall be lawful for the examiners to suspend him; and if upon examination before the next succeeding county or corporation court, the court shall be of opinion that such misconduct or misbehaviour is sufficiently proved, they shall cause the same to be certified to the examiners, and the person shall thenceforth be altogether disqualified, and cease to act as a pilot.

IX. EVERY pilot-boat, the owner whereof hath or shall obtain a branch in this commonwealth, shall have, ten feet below the head of his foresail, and on each side thereof the name of such boat and the port to which she belongs, painted in letters of not less than nine inches in length.

X. NO person whatever shall be permitted to execute the business of a pilot, notwithstanding he may have such branch as aforesaid, unless he, or the company to which he belongs, shall keep one sufficient boat of eighteen feet keel at the least, under the penalty of one hundred and fifty dollars for every vessel such pilot shall undertake to conduct; to be recovered with costs in any court of record in this commonwealth, by the party suing for the same, to his or her own use; and if any person not having such branch, and keeping such boat as aforesaid, shall presume to take upon himself to conduct or pilot any vessel coming from sea, to or from any place or places hereafter mentioned, every such person shall forfeit and pay the sum of one hundred and fifty dollars; to be recovered with costs in any court within this commonwealth, by the party suing for the same; and moreover such person shall be liable for all damages occasioned by his undertaking the pilotage; to be recovered by action at common law in any court within this commonwealth, by the party injured. *a*

XI. *PROVIDED*, That this act shall not be construed to extend to hinder any person or persons from assisting any vessel in distress, so as he or they shall deliver up such vessel to the pilot, who shall come on board and offer to undertake the conducting of her; for which such assistant shall and may demand and receive from the said pilot, half the fees allowed for pilotage by this act.

XII. NO more than four pilots shall be in partnership, under the penalty of three hundred dollars each, to be recovered with costs by any person suing for the same.

XIII. EVERY master of a merchant vessel coming from sea, shall be obliged to receive the first pilot who offers below the *Horje-shoe*, to conduct his vessel, or shall pay him full pilotage to the first port, and shall continue the same pilot to his port of discharge; and every pilot cruising or standing out to sea, shall offer his services first to the vessel nearest land, or in most distress; and if any pilot not being hindered by sickness, or any other lawful cause, shall refuse to go on board any vessel when required by the master, to execute his office, such pilot or pilots in either case, shall upon complaint and conviction before the examiners, or any three of them, forfeit to the party injured sixty dollars, and be liable to be suspended by them for such time as they shall think fit. Every vessel having no pilot on board, and following another that has a pilot, shall pay such pilot half fees.

XIV. IF any pilot shall negligently or carelessly lose any vessel under his care, and be thereof convicted by due course of law, he shall forever after such conviction, be incapable of acting as a pilot in this state, and shall be also liable to pay all such damages as any person or persons shall sustain by such negligence or carelessness, to be recovered in manner before directed.

XV. THE following and no greater prices shall be taken or demanded for pilotage, that is to say; On *James river* for all vessels coming from sea, from *Cape Henry*, or *Lynhaven Bay*, to *Hampton road*, six dollars and sixty-seven cents; and for going out to sea, five dollars; and for each foot depth of water they draw, from *Hampton road*, or *Sewell's point*, to *Norfolk* or *Portsmouth*, fifty cents per foot; to *Sleepy-hole*, or *Look-out*, sixty-one cents per foot; to *Pagan creek*, fifty cents per foot; to *James-town*, one dollar and twenty one cents per foot; to *Martin's Brandon*, one dollar and thirty-three cents per foot; to *Flour-de-Hundred*, one dollar and forty-two cents per foot; to *City-point*, or *Bermuda Hundred*, one dollar and eighty-three cents per foot; to *Four-Mile creek*, two dollars and twenty-one cents per foot; to *Osborne's*, two dollars and fifty cents per foot; to *Warwick*, two dollars and eighty-one cents per foot; and to *Richmond*, three dollars per foot. On *York-river*, coming from sea, from the *Capes*,

or *Lynhaven-Bay*, to *York town*, ten dollars; and for going to sea, six dollars and sixty-seven cents; from *Back river*, or *Egg Island*, to *York town*, five dollars; from *York town* to *West-point*, eighty-one cents per foot; to *Cumberland*, one dollar per foot; to the highest landings on *Pamunkey river*, one dollar and twenty-five cents per foot; to *Shepherd's*, ninety-two cents per foot; to *Meredith's*, *Moore's*, or the highest lands on *Mattapony*, one dollar and nineteen cents per foot. From *Cape Henry* to any river on *Mock jack bay*, ten dollars; from the *Cape* to *Urbanna*, thirteen dollars and thirty-three cents; and for going from *Urbanna* to sea, ten dollars; from *Urbanna* to *Tappahannock*, eighty-three cents per foot; to *Naylor's hole*, eighty-one cents per foot; to *Leeds's* or *Micou's*, one dollar and twenty-nine cents per foot; to *Port Royal*, one dollar and eighty-three cents per foot; to *Fredericksburg*, two dollars and twenty-nine cents per foot; from *Cape Henry* to *Pianketank*, thirteen dollars and thirty-three cents; from *Cape Henry* to *Smith's point*, on *South Potomac*, coming from sea, twenty dollars; and for going out, sixteen dollars and sixty seven cents; from *Smith's point*, to *Coan* or *Yeocomico*, fifty cents per foot; to *Machadock*, fifty-eight cents per foot; to upper *Machadock*, eighty-one cents per foot; to *Nangomy*, one dollar per foot; to *Boyd's hole*, one dollar and eight cents per foot; to *Quantico*, one dollar and twenty-one cents per foot; to *Occoquan*, one dollar and twenty-nine cents per foot; to *Piscataway*, one dollar and fifty-eight cents per foot; to *Alexandria*, one dollar and eighty-nine cents per foot; to *Eastern Branch*, two dollars per foot; and the same fees by the foot back again, and from the places aforesaid to the *Capes*. And where any master of a vessel shall give reasonable notice to the pilot, he shall employ, of the time and place such master shall appoint for his attendance, and such pilot shall attend accordingly, he may demand and take the sum of one dollar and sixty-seven cents for every day he shall be detained by such master's not being ready to proceed according to his notice; and if any pilot shall demand or exact any greater or other fee, he shall forfeit double the sum so demanded; recoverable before two justices, one of whom being of the quorum, with costs, by the informer.

Allowance where they are detained by the vessel's not being ready.

XVI. AND to the end that strangers may not be imposed on in the rates of pilotage as settled by this act, *Be it enacted*, That every pilot appointed in pursuance of this act, shall be obliged when he is in execution of his office, to carry with him a copy thereof, and when he receives the fees for services performed on board any vessel, he shall produce the said copy to the master of the vessel, to shew that he demands no greater fee than is allowed by this act. And if any pilot shall neglect or refuse such copy as aforesaid, he shall forfeit and pay sixty dollars to any person who shall sue for the same, to be recovered in any court within this state.

Pilots to carry with them, and produce a copy of this act.

XVII. AND where any pilot has reason to believe the master of any vessel will not pay the pilotage, he may make out his account for the pilotage due him, and deliver the same to the collector or other officer of the customs, where the master of such vessel clears out; and the said collector or other officer of the customs, is hereby authorised to demand and receive the said pilotage, before the master shall be permitted to clear out his vessel. The collector or other officer of the customs, shall retain two and an half per centum for receiving money and paying the same to the pilot.

Officers of the customs not to permit a vessel to clear out till the pilotage is paid.

XVIII. THE public printer shall furnish the examiners, on demand, with one hundred copies of this act; one of which copies signed by three of the said examiners, shall be delivered to each pilot.

Examiners to be furnished with copies of this act.

XIX. ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause.

XX. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXXVIII.

An Act reducing into one, the several Acts for regulating the Inspection of Pork, Beef, Tar, Pitch, and Turpentine.

[Passed the 26th of December, 1792.]

I. WHEREAS experience has shewn, that the establishment of proper regulations for the inspection of pork, beef, tar, pitch, and turpentine, have contributed to the sale and export of those articles: *b*

Preamble.

(a) 1786, ch. 38. (b) 1762, ch. 3.

H h

Inspectors, how appointed,

and qualified,

Their duty,

Their fees,

Contents and quality of barrels of pork and beef.

Of tar, pitch, and turpentine.

Penalties for exposing

II. *BE it therefore enacted by the General Assembly,* That no pork or beef shall be exported out of this commonwealth, or tar, pitch, or turpentine exposed to sale or exported, until the same shall be packed or filled in barrels, under the regulations herein after expressed; and the justices of every county court within this commonwealth, are hereby authorized and required, whenever application shall be made to any court for that purpose, and in the months of *August* and *September*, annually, to nominate and appoint in open court, one or more (not exceeding six in one county) fit and able person or persons, residing in the same county, to inspect the package, and weigh all pork and beef, and also to inspect the filling of all tar, pitch, and turpentine, packed or filled for sale or exportation in their respective counties; and the said courts may appoint the said person or persons to be inspectors of pork, beef, tar, pitch, and turpentine, if such person appears to them to be duly qualified, or may appoint several inspectors, as in their discretion shall seem best: And every person so appointed, shall before he enters upon the execution of that office, make oath before the justices of his county court, carefully to view, inspect and examine, when required, all pork, beef, tar, pitch, and turpentine, packed or filled for sale or exportation, and to the best of his skill and judgment, not to pass or stamp any barrel of pork or beef, or any tar, pitch, or turpentine, that is not good, clean, sound, merchantable, and of the weight or guage by this act directed, and faithfully to discharge the duty of his office, without favor, affection, or partiality; and shall constantly attend, upon notice, at such time and place, as the owner of any of the said commodities shall appoint, to inspect the same within his county, but shall not inspect or stamp any pork, beef, tar, pitch, or turpentine, imported from *Carolina*, until the same shall be brought to some public landing; and shall provide a stamp or stamps, with the first letter of his county, the letter V, for *Virginia*, the first letter of his own christian name, and his whole surname at length, to be stamped on each barrel or cask by him passed; and on every barrel of pork, the letter L, for large, or the letter S, for small pork; and on the head of every barrel of tar, pitch, or turpentine, shall distinguish whether the same be tar, pitch, or turpentine; for which he may demand and take, for every barrel of pork or beef by him stamped, six cents; for every barrel of tar, pitch, or turpentine, four cents, and no more; to be paid down by the owner. And if any officer so appointed and sworn, shall neglect his duty, or stamp any of the commodities aforesaid, contrary to this act, he shall forfeit and pay four dollars for every barrel of pork or beef, and one dollar for every barrel of tar, pitch, or turpentine, which shall be found not duly qualified, or of less weight or contents than this act requires; and also one dollar for every neglect of his duty; recoverable by the informer, with costs, before a justice of the peace of the county where such offence shall be committed. *a*

III. EVERY barrel of pork or beef, packed within this commonwealth for sale or exportation or imported here, shall contain at least two hundred and four pounds nett, of good, clean, fat, sound, merchantable meat, well salted between each layer, well pickled, nailed and pegged, and no more than two heads of pork in one barrel; and no inspector shall pass or stamp any barrel of pork or beef, that does not appear to such inspector to be well salted and cured before the same is packed; and after the same has been inspected, weighed, found merchantable, and passed by the inspector or inspectors, residing in the county where the same shall be packed or imported, every such barrel shall be by him or them stamped or branded as aforesaid, and certificate thereof given to the owner. And every barrel of tar, pitch, and turpentine, shall contain thirty-one gallons and a half, at the least; and after the same shall be inspected, guaged, found clean, and well and truly made merchantable, and passed by the inspector or inspectors of the county where the same shall be inspected, shall be by him or them stamped or branded, and a certificate thereof given to the owners as aforesaid.

IV. ALL beef or pork exposed to sale or barter within this commonwealth in barrels, whether the same be packed here or imported from *Carolina*, or any other place, shall contain at least two hundred and four pounds nett meat, allowing only two and a half *per centum* for shrinkage or loss of weight. And every barrel of tar, pitch, or turpentine, exposed to sale or barter, whether made here or imported from any other place, shall contain at least thirty-one gallons and a half, and be stamped as this act directs; and if any person shall

presume to sell, or expose to sale or barter, any barrel of pork, beef, tar, pitch, or turpentine, of less weight or guage, he or she shall forfeit and pay to the informer four dollars for every such barrel of pork or beef, and one dollar for every such barrel of tar, pitch, or turpentine, sold or exposed to sale or barter in this commonwealth; recoverable with costs by the informer, before any justice of the county where such offence shall be committed, although the penalty shall exceed five dollars; and every justice of the peace, upon such complaint before him made, and due proof of such offence, shall and may by virtue of this act, give judgment for the whole penalty, and award execution thereupon, any law to the contrary thereof notwithstanding.

to sale barrels of less weight or guage.

How recoverable.

Judgments for, may be appealed from.

V. *PROVIDED nevertheless*, That from such judgment for more than five dollars, the party grieved may appeal to the next court to be held for the county wherein such complaint was made, the appellant entering into bond, with sufficient security, before the justice by whom the judgment shall be given, that he will prosecute his appeal with effect, and pay the same judgment, and all costs awarded by the court, if the judgment shall be affirmed; and the justice of the peace taking such bond, shall return the same, together with the whole record of his proceedings in the cause, to the same court to which such appeal shall be, which court shall and may receive, hear, and finally determine the same.

VI. EVERY seller or exporter of beef, pork, tar, pitch, or turpentine, packed or filled in this commonwealth, and stamped or branded, shall make oath before a justice of peace, at the time of the delivery of the goods sold or exported, that the several barrels by him then sold or exported, are the same that were inspected and passed, and do contain the full quantity, without embezzlement or alteration, to his knowledge; and every person taking a false oath, and being lawfully convicted thereof, shall suffer the pains and penalties inflicted on persons guilty of wilful and corrupt perjury; and moreover shall forfeit and pay the sum of one hundred and fifty dollars; to be recovered by any person or persons that will sue for the same, to his or their own use.

Oath of seller or exporter of pork, beef, tar, pitch, or turpentine.

VII. EVERY cooper, and the master or owner of every servant or slave, who shall set up barrels for pork, beef, tar, pitch, or turpentine, shall make the same in the following manner, to wit; barrels for pork and beef, shall be made with good, strong, well seasoned white oak timber, clear of sap, and not less than five-eighths of an inch thick, tight and well hooped, with twelve hoops at least; and in the barrels for turpentine, there shall be no sap pine timber, and they shall be hooped two-thirds of their length: Every barrel for pork or beef, to contain from twenty-nine to thirty-one gallons each; and every barrel for tar, pitch, or turpentine, thirty-one gallons and a half at least, with his name, or the name of the master of the servant or slave, at length, stamped or branded upon every barrel, under the penalty of forty-two cents for every barrel set up for sale or exportation, and not so stamped or branded, of less contents than aforesaid.

Cooper's duty in setting up barrels for pork, beef, tar, pitch, and turpentine.

VIII. THE several fines and forfeitures imposed by this act, (except such as are otherwise recoverable) shall and may be recovered to the use of the informer, where the same shall not exceed five dollars, before any justice of the peace; and for any sum above five dollars, and not exceeding twenty dollars, by petition in any county court; and for all sums above twenty dollars, in any court of record within this commonwealth, by action of debt or information, with costs of suit.

Fines, &c. how recoverable.

IX. ALL acts and parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements which have accrued, been vested, or incurred prior to the commencement of this act.

Repealing clause: *Provido*.

X. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXXIX.

An Act reducing into one, the several Acts to oblige Vessels, coming from Foreign Parts, to perform Quarantine.†

[Passed the 26th of December, 1792.]

I. **W**HEREAS it is necessary to compel vessels arriving in this country from foreign parts of the world, to perform quarantine in certain cases: a

How rules for performing quarantine shall be made and observed.

II. *BE it enacted by the General Assembly,* That vessels, persons, and merchandize, coming or brought into any place within this commonwealth, from any other part of the world, whence the governor, with advice of his council, shall judge it probable that any plague or other infectious disease may be brought, shall be obliged to make their quarantine in such place, during such time, and in such manner as shall be directed by the governor, by his order in council, notified by proclamation, to be published in the *Virginia* gazette: And until they shall be discharged from the quarantine, no such persons or merchandize shall come or be brought on shore, or go or be put on board of any other vessel in the commonwealth, but in such manner, in such cases, and by such license, as shall be permitted by the order; and the vessels and persons receiving goods out of her, shall be subject to the orders concerning quarantine, and for preventing infection, which shall be made by the governor and council, and notified as aforesaid.

Duty of masters of vessels having on board persons infected with pestilential diseases.

III. *THE* master of a vessel coming from sea, on board of which there shall be a person infected with the plague or other pestilential disease, shall immediately make the case known to such person as shall be appointed for the purpose, in the manner as is hereinafter directed, who shall give intelligence thereof with all speed to the governor, that measures may be taken for support of the crew, and precautions used to prevent the spreading of the infection; and the master shall not enter into any port, but shall remain in some open road, and shall avoid and hinder all intercourse with other vessels or persons, nor shall any of the passengers or crew go on shore, until the order of the governor and council shall be received by the master. Whosoever shall offend against this act, in either or any of the afore mentioned instances, shall be amerced the sum of fifteen hundred dollars.

Enquiries to be made when vessels come from infected places.

IV. *WHEN* a place shall be infected with the plague or other pestilential disease, or when the governor, with the advice of council, shall have notified by proclamation published in the *Virginia* gazette, that it is judged probable the plague or other pestilential disease may be brought from any place, if a vessel from such place shall be coming into a port of the commonwealth, the person who shall be authorized to see quarantine performed, shall go off, or cause some other to go off to the vessel, and at a convenient distance require the commander, to declare what is his name, at what place the cargo was taken on board, at what places the vessel touched in her passage, whether any of those places were infected with the plague or any other pestilential disease, how long the vessel had been in her passage, how many persons were on board when she set sail, whether any on board during the voyage had been infected with the plague or other pestilential disease, and who they are, how many died in the voyage, and of what distemper, what vessels he or any of his company with his privy went on board of, and whether any of their company had been on board of his vessel, in their voyage, and to what places those vessels belonged, and what are the contents of his lading.

Penalty on the masters for concealing it.

V. *THE* master of a vessel coming from a place infected with the plague or other pestilential disease, or having any person on board so infected, who shall conceal it, or who shall not give true answers to the questions so to be propounded to him, shall be amerced the sum of fifteen hundred dollars.

Duty of the master of a vessel performing quarantine.

VI. *THE* master of a vessel ordered to perform quarantine, when he shall be required, after his arrival at the place appointed, shall deliver to the officer authorized to see it performed there, the bills of health and manifests he shall have received during the voyage, with his log-book and journal; and refusing or neglecting so to do, or to repair in convenient time after notice to the place appointed, or escaping from thence before quarantine performed, shall be amerced the sum of fifteen hundred dollars.

Penalty for breach.

† Amended, post ch. 159. (a) Oct. 1783, ch. 19, sec. 1.

VII. PERSONS ordered to perform quarantine, if they shall escape, may be compelled to return, or if they shall attempt to escape, may be detained by the persons who shall be authorised to see the quarantine performed, and who may employ force, and call for the assistance of others, if it be necessary for this purpose.

Persons escaping, to be compelled to return to the vessel.

VIII. ANY person going on board a vessel, or into a place under quarantine, without license from the superintendant thereof, may be compelled to remain there, in the same manner as he might have been if he had been one of the crew of the vessel. The person thus appointed to execute an order concerning quarantine, guilty of wilful breach or neglect of duty, shall be amerced the sum of three thousand dollars. And any person embezzling, or wilfully damaging goods performing quarantine under his direction, shall be liable to the party injured for treble the value of the damages sustained thereby. The vessel, persons, and goods, after quarantine performed, certificate thereof, and that they are free from infection, being given by the superintendant, shall be no further restrained by virtue of this act.

Various penalties.

IX. A PERSON authorised to see quarantine performed, or a watchman upon any vessel, place, or goods, under quarantine, deserting his duty, or willingly permitting a person, vessel, or goods to depart, or be conveyed away from the place where the quarantine ought to be performed, without a lawful license, or a person empowered to give a certificate of the performance of quarantine, knowingly giving a false certificate, shall be amerced the sum of three hundred dollars.

X. THE forfeitures inflicted by this act, shall be, one moiety to the use of the commonwealth, the other moiety to any person who shall sue for the same; and shall be recovered by action of debt, in which action the defendant shall be ruled to give special bail.

Forfeitures how recoverable and appropriated.

XI. THE governor, with the advice of council, shall be, and he is hereby authorised to appoint, and from time to time to fill up such vacancies as may take place in each of the ports that have been, or hereafter may be appointed by the Congress of the United States, as ports of entry and delivery, some suitable person to discharge the duties above designated, and to make such compensation as in their judgment may be sufficient to each of the said persons, for any services they may occasionally perform in the same. *a*

Appointments of persons to see quarantine performed, how to be made.

XII. THE governor in council, shall direct the auditor to issue his warrant on the treasurer for such sums of money as may be necessary for the support of the persons performing quarantine, and those appointed to see it performed, who is directed to pay the same out of the public money in his hands, appropriated to defray the contingent charges of government, and shall be repaid by the master or owner of the vessel, after quarantine performed.

Expenses of performing quarantine, how to be defrayed.

XIII. ALL and every Act and Acts, clause and clauses of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Repealing clause.

XIV. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this Act

CHAP. CXXX.

An Act declaring the Punishment in case of Rape.

[Passed the 26th of December, 1792.]

I. **B**E it enacted by the General Assembly, That if any man, from and after the commencement of this act, do ravish a woman married, maid, or other, where she did not consent before nor after; or shall ravish a woman married, maid, or other, with force, although she consent after, the person so offending, shall be adjudged a felon, and shall suffer death as in case of felony, without the benefit of clergy. *b*

Punishment in case of rape.

II. IF any person shall unlawfully and carnally know and abuse any woman child under the age of ten years, every such unlawful and carnal knowledge shall be felony, and the offender being duly convicted thereof, shall suffer as a felon, without benefit of clergy.

For carnally knowing a woman child under the age of ten years.

III. ALL and every statute and statutes, within the purview of this act, shall be, and the same are hereby repealed, *Provided always*, that nothing in this act contained, shall be construed to repeal any such statute or statutes,

Repealing clause. *Provido.*

(*a*) O.S. 1783, ch. 19, sec. 1. (*b*) Stat. 13, Edw'd 1, ch. 34. 18 Eliz. ch. 7.

Commencement of this Act.

for so much thereof as relates to any offence within the purview thereof, committed or done before the commencement of this act.

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXXXI.

An Act reducing into one, the several Acts for apprehending and securing Runaways.

[Passed the 26th of December, 1792.]

Method of taking up runaways and conveying them to prison, or to their owners.

Reward for apprehending them

Jailors to advertise descriptions of them.

Not to be conveyed to prison if the owner lives in the county.

How to be employed when the owners do not claim them.

Owners to prove their property.

Runaways to be sold, if not claimed within a certain time.

Where they have crossed the bay.

How rewards for apprehending them may be recovered.

Jailer's fees for committing, maintaining

I. **B**E it enacted by the General Assembly, That any person may apprehend a servant or slave, suspected to be a runaway, and carry him before a justice of the peace, who, if to him the servant or slave appear, by the oath of the apprehender, to be a runaway, shall give a certificate of such oath, and the distance, in his opinion, between the place where the runaway was apprehended, and that from whence he fled; and the apprehender shall thereupon convey the runaway to the last mentioned place, or deliver him to the owner, or some other authorized to receive him, or to the jailor of the county or corporation in which he was apprehended, and shall be entitled to one dollar and sixty-seven cents, and ten cents for every mile of such distance as he shall necessarily convey him, to be paid by the owner; and if such runaway be committed to the jail of any county or corporation, the keeper thereof shall forthwith cause an advertisement, with a description of the runaway's person and wearing apparel, to be set up at the door of the courthouse of his county or corporation: *Provided*, that if the owner or overseer of such runaway shall be an inhabitant of the county where such runaway is taken up, the taker up shall, in that case, convey and deliver him or her to the owner or overseer, as aforesaid, and shall not be at liberty to carry such runaway to the jail of the county or corporation, as is before directed. *a*

II. IF the owner claim not within two months thereafter, the sheriff or serjeant shall publish a like advertisement for three months in the *Virginia gazette*, and shall hire the runaway out during such time, and for such wages as his county or corporation court shall approve, having put an iron collar, stamped with the letter *B* round his neck, and out of his wages pay the reward for apprehending, and the expenses incurred on his account; but he shall deliver the runaway, even before the time expire, and pay the balance of the wages received; if any, to him who shall claim, and who having proved before the court of some county or corporation, or a justice of the peace of the county or corporation, in which such runaway is confined, that he had lost such an one as was described in the advertisement, and having there given security to indemnify the sheriff or serjeant, shall produce the clerk's, or the justice's certificate, of such proof made, and security given, proved by his own or another's oath, the runaway when shewn to him, to be the same that was so lost, and pay so much as the expenses aforesaid shall exceed the wages.

III. THE runaway being a slave, after the end of one year from the last advertisement, shall be sold; and the proceeds of the sale, with the balance of the wages, paid to the public treasurer, for the use of the owner, proving his property at any future time, or otherwise for the use of the commonwealth.

IV. IF the runaway die in jail, the expenses shall be defrayed by the public.

V. THE runaway, if he shall have crossed the bay of *Chesapeake*, shall be delivered to the sheriff of some county bounded thereby, who shall transport him to the other side, and cause him to be put into the hands of a constable, to be by constable to constable conveyed to the owner, who shall pay to the sheriff twenty dollars, and to the constable ten cents for every mile he shall necessarily travel in performing this duty.

VI. UPON any owner's neglecting or refusing to pay the above reward, the taker-up may sue for, and recover the same with costs, either by warrant before a single justice, where the reward shall not exceed five dollars, or where the reward shall exceed that sum, by petition, or action, as the case may require, in any court of record within this commonwealth. *b*

VII. THE keeper of every jail may demand and take for the commitment of every runaway, twenty-five cents, and the same for releasement; and for e-

(a) From 1785, ch. 81. (b) 1789, ch. 19, sec. 3.

very twenty-four hours keeping him or her in jail, seventeen cents, and no more; and if he, or any sheriff, serjeant, or jailor, shall demand or take any other or greater fee than is, or shall be allowed by law for runaways, he or they so offending, shall for every such offence, forfeit and pay four dollars to the party grieved, and shall also refund and pay back all money received over and above the legal fees; recoverable with costs, before any justice of the peace of the county or corporation where such offence shall be committed. *a*

VIII. ALL and every act and acts, or parts of acts, within the purview of this act, shall be, and are hereby repealed. *Provided*, that all rights and remedies, given by every such act or acts, and all such parts of acts, shall be, and remain as if this act had not been made. *Repealin clause. Proviso.*

IX. THIS act shall commence in force, from and after the passing thereof. *Commencement of this act.*

CHAP. CXXXII.

An Act reducing into one, the several Acts concerning Servants.

[Passed the 26th of December, 1792.]

I. **B**E it enacted by the General Assembly, That all white persons, not being citizens of any of the confederated states of *America*, who shall come into this commonwealth under contract, to serve another in any trade or occupation, shall be compellable to perform such contract, specifically during the term thereof, or during so much of the same as shall not exceed seven years. Infants under the age of fourteen years brought in under the like contract, entered into with the consent of their father or guardian, shall serve till their age of twenty-one years only, or for such shorter term as the said contract shall have fixed. *b*

What servants shall specifically perform their contracts.

II. THE said servants shall be provided by their master with wholesome and sufficient food, cloathing and lodging; and at the end of their service, if they shall not have contracted for any reward, other than transportation, food, cloathing, and lodging, shall receive from him, one new and complete suit of cloathing, suited to the season of the year; to wit, a coat, waistcoat, pair of breeches and shoes, two pair of stockings, two shirts, a hat and blanket. *b*

Master's duty to servants.

III. THE benefit of the said contract of service, shall be assignable by the master to any person to whom the servant shall in the presence of a justice of the peace, freely consent that it shall be assigned, the said justice attesting such free consent in writing, and shall also pass to the executors, administrators, and legatees of the master. *b*

Contracts for service, how assignable.

IV. ANY such servant, being lazy, disorderly, guilty of misbehaviour to his master, or in his master's family, shall be corrected by stripes, on order from a justice of the county, city, or corporation wherein he resides; or refusing to work, shall be compelled thereto in like manner, and moreover shall serve two days for every one he shall have so refused to serve, or shall otherwise have lost, without sufficient justification. All necessary expenses incurred by any master for apprehending and bringing home any absconding servant, shall be repaid by further service, after such rates as the court of the county, city, or corporation, shall direct; unless such servant shall give security, to be approved of by the court, for repayment in money, within six months after he shall be free from service, and shall accordingly pay the same. *b*

How lazy and disorderly servants may be punished.

Shall compensate by further service, for time lost, and for expenses of bringing them home when absconding.

V. If any master shall fail in the duties prescribed by this act, or shall be guilty of injurious demeanor towards his servant, it shall be redressed on motion, by the court of the county, city, or corporation, wherein the servant resides, by immediate discharge from service, if the injury were gross, or by a specific order for a change in his demeanor, and a discharge from service, if such order be disobeyed. *b*

County courts to hear servants' complaints.

VI. ALL contracts between master and servant during the time of service, shall be void. *b*

Contracts between masters and servants, during service, void.

VII. THE court of every county, city, or borough, shall at all times receive the complaints of servants, being citizens of any one of the confederated states of *America*, who reside within the jurisdiction of such court, against their masters or mistresses, alledging undeterved or immoderate correction, insufficient

Proceedings on complaints of servants against masters, and of masters against servants.

(1) 1753, ch. 2, sec. 24. 1772, ch. 2, sec. 3. (b) 1785, ch. 82, sec. 1, 2, 3, 4, 5, 6.

allowance of food, raiment, or lodging, and may hear and determine such cases in a summary way, making such orders thereupon, as in their judgment will relieve the party injured in future; and may also in the same manner hear and determine complaints of masters or mistresses against their servants, for desertion, without good cause, and may oblige the latter, for loss thereby occasioned, to make retribution, by further services, after expiration of the times for which they had been bound. *a*

Servants shall have the property of their effects

VIII. IF any servant shall, at any time, bring in goods or money, or during the time of their service, shall, by gift or any other lawful means, acquire goods or money, they shall have the property and benefit thereof to their own use. And if any servant shall be sick or lame, and so become useless or chargeable, his or her master or owner shall maintain such servant until his or her whole time of service shall be expired. And if any master or owner shall put away a lame or sick servant, under pretence of freedom, and such servant becomes chargeable to the county, such master or owner shall forfeit and pay thirty dollars to the overseers of the poor of the district, wherein such offence shall be committed; recoverable with costs, by action of debt, in any county or corporation court of this commonwealth; and moreover shall be liable to the action of the said overseers of the poor at the common law, for damages. *b*

Sick or lame servants may not be discharged.

Who may not have white servants.

IX. NO negro, mulatto, or *Indian*, shall at any time purchase any servant, other than of their own complexion; and if any of the persons aforesaid, shall, nevertheless, presume to purchase a white servant, such servant shall immediately become free, and be so held, deemed, and taken. *b*

Penalty for dealing with servants without leave.

X. NO person whatsoever, shall buy, sell, or receive of, to, or from any servant, any coin or commodity whatsoever, without the leave or consent of the master or owner of such servant; and if any person shall presume to deal with any servant, without such leave or consent, he or she so offending, shall forfeit and pay to the master or owner of such servant, four times the value of the thing so bought, sold, or received; to be recovered with costs, by action upon the case, in any county or corporation court of this commonwealth; and shall also forfeit and pay the further sum of twenty dollars, to any person who will sue for the same; to be recovered with costs, by summons and petition, or receive on his or her bare back, thirty-nine lashes, well laid on, at the public whipping-post, but shall nevertheless be liable to pay the costs of such petition and summons. *b*

Punishment of servants for breach of penal laws.

XI. IN all cases of penal laws, where free persons are punishable by fine, servants shall be punished by whipping, after the rate of twenty lashes for every eight dollars, so that no servant shall receive more than forty lashes at any one time, unless such offender can procure some person to pay the fine. *b*

Servants when free shall have certificates thereof.

XII. EVERY servant upon expiration of his or her time, and proof thereof made before the court of the county where he or she last served, shall have his or her freedom recorded, and a certificate thereof under the hand of the clerk, which shall be sufficient to indemnify any person for entertaining or hiring such servant; and if such certificate shall happen to be torn or lost, the clerk, upon request, shall issue another, reciting therein the loss of the former. And if any person shall harbour or entertain a servant, not having and producing such certificate, he or she shall pay to the master or owner of such servant, one dollar for every natural day he or she shall so harbour or entertain such runaway; recoverable with costs, by action of debt, in any county or corporation court of this commonwealth. And if any runaway shall make use of a forged certificate, or after delivery of a true certificate to the person hiring him or her, shall steal the same, and thereby procure other entertainment, the person entertaining or hiring, shall not be liable to the said penalty, but such runaway, besides making reparation for loss of time and charges of recovery, shall stand two hours in the pillory, on a court day, for making use of such forged or stolen certificate; and the person forging the same, shall forfeit and pay thirty dollars; one moiety to the commonwealth, and the other moiety to the owner of such runaway, or the informer, recoverable with costs, in any county or corporation court of this commonwealth; and on failure of present payment or security for the same within six months, such offender shall receive thirty-nine lashes on his or her bare back, well laid on, at the common whipping-post. And where a runaway shall happen to be hired upon a forged certificate, and afterwards denies the delivery thereof, the *onus probandi* shall lie upon the party hiring such runaway. *b*

Penalty for harbouring servants without such certificate.

Punishment of servants using forged or stolen certificates.

And of the persons forging.

Repealing clause,
Proviso.

XIII. ALL acts and parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or accretments which have accrued, been vested, or incurred prior to the commencement of this act.

XIV. THIS act shall commence in force, from and after the passing thereof.

Commencement of this
act.

CHAP. CXXXIII.

An Act reducing into one, the several Acts for punishing Persons guilty of certain Thefts and Forgeries.†

[Passed the 19th of December, 1792.]

I. **B**E it enacted by the General Assembly, That if any person shall counterfeit, aid, or abet in counterfeiting any coin made current in this commonwealth, or shall make, or assist, aid, or abet in making base coin, or shall pass any such counterfeit or base coin in payment, knowing the same to be counterfeit or base, every such person shall on legal conviction, suffer death without benefit of clergy. *a*

Felonv without benefit
of clergy to counterfeit
current coin, or to make
or pass base coin.

II. IF any person shall falsely make, forge, or counterfeit, or cause, or procure to be falsely made, forged, or counterfeited, or willingly act, or assist in the false making, forging, or counterfeiting any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money, or any acquittance or receipt, either for money or goods, with intention to defraud any person whatsoever, or shall utter, or publish as true, any false, forged, or counterfeited deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money, endorment, or assignment of any bill of exchange, or promissory note for the payment of money, acquittance or receipt, either for money or goods, with intention to defraud any person, knowing the same to be false, forged, or counterfeited, then every such person, being thereof lawfully convicted, shall be deemed guilty of felony, and suffer death as a felon, without benefit of clergy. *b*

To forge any deed, will,
bond, note, receipt, &c.

III. IF any person within this commonwealth, shall forge or counterfeit, alter or erase, any certificate or warrant, issued, or to be issued by any person or persons authorised for that purpose, either by the Congress of the United States, or the legislature of this state, for the payment of money, or shall be aiding or assisting therein, or shall demand payment thereof, knowing the same to be forged, counterfeited, altered, or erased, or shall transfer any such certificate or warrant, knowing the same to be forged or counterfeited, altered, or erased; or shall forge or counterfeit, alter or erase, any certificate whatever, for the purpose of obtaining a settlement of money from any person or persons authorised for that purpose, either by the Congress of the United States, or the legislature of this state, or shall be aiding or assisting therein, or shall require settlement thereon, or transfer the same, knowing it to be forged, counterfeited, altered or erased, he, or she so offending, and thereof legally convicted, shall suffer death without benefit of clergy. *c*

To forge any certificate
or warrant issued under
authority of the United
States, or of this state,

IV. IF any person whatsoever shall forge or counterfeit, alter or erase the stamp or receipt of any inspector of flour or hemp, or tender in payment any such forged or counterfeited, altered or erased receipt, knowing it to be such, and shall thereof be convicted, he or they shall be adjudged a felon, and suffer death as in the case of felony, without benefit of clergy. *d*

To forge the stamp or
receipt of any inspec-
tor of flour or hemp,

V. HE or she shall be adjudged a felon, and not have the benefit of clergy, who shall forge or counterfeit, alter or erase the stamp or receipt of any inspector or inspectors of tobacco, or shall cause or procure such stamp or receipt to be forged or counterfeited, altered or erased, or shall aid or assist in forging or counterfeiting, altering or erasing, such stamp or receipt, or shall pass or tender, or shall cause or procure to be passed or tendered, any such stamp or receipt in payment or exchange, knowing the same to have been forged, or counterfeited, altered or erased, or shall have in his or her custody, or possession, any inspector's stamp or receipt, which hath been altered or erased, knowing the same to have been altered or erased, and shall not discover such altered or erased stamp or receipt to two justices of the peace, within five days after they or either of

To forge the stamp or
receipt of any inspector
of tobacco.

† Amended, post, ch. 171. (a) May 1776, ch. 10. (b) 1789, ch. 19.
(c) Oct. '84, ch. 69. (d) May '82, ch. 52, sec. 5.

To steal or forge any
land warrant,

Or to counterfeit the
seal of the register of
the land-office.

To steal or take by rob-
bery any loan-office
certificate of the United
States, or any of them,
or any warrant of the
governor or auditor for
payment of money.

Repealing clause.

Proviso.

Commencement of this
act.

them shall have come to his or her possession, or shall export, or cause to be exported; any hogshhead or cask of tobacco stamped with a forged or counterfeited stamp, or shall receive or demand, tobacco of an inspector upon any forged or counterfeited, altered or erased stamp or receipt, knowing such stamp or receipt to be forged or counterfeited, altered or erased. *a*

VI. HE or she shall be adjudged a felon, and not have the benefit of clergy, who shall steal, or by other means take from the possession or custody of another, any warrant from the register of the land office of this commonwealth, to authorize a survey of waste and unappropriated lands; or who shall alter, erase, or aid, or assist in the alteration or erasure of any such warrant; or forge, or counterfeit, or aid, abet or assist, in forging or counterfeiting any written or printed paper, purporting to be such warrant; or who shall transfer to the use of another, or for his or her own use present or cause to be presented to the register for the exchange thereof, or to a surveyor for the execution thereof, any such warrant or paper purporting to be such warrant, knowing the same to be transferred or presented, for the exchange or the execution thereof, to be stolen, or by other means taken from the possession or custody of another, or altered or erased, or forged or counterfeited: And he or she shall be adjudged a felon, and not have the benefit of clergy, who shall falsely make or counterfeit, or aid, abet, or assist in falsely keeping or counterfeiting any instrument, stamping an impression in the figure and likeness of the seal officially used by the register of the land-office, or who shall have in his or her possession or custody, such instrument, and shall wilfully conceal the same, knowing it to be falsely made or counterfeited. *b*

VII. HE or she shall be adjudged a felon, and not have the benefit of clergy, who shall steal, or by robbery take from the possession or custody of another, any loan-office certificate of the United States, or any of them, or any warrant of the governor, or other person exercising that function, or any certificate of the auditor for public accounts to the treasurer, authorizing the payment of money, or shall present, or cause to be presented, such loan-office certificate at a loan-office of the United States, or any of them, for the discharge of the whole, or any part thereof, or such warrant or auditor's certificate at the public treasury for the payment thereof, knowing such loan-office certificate or warrant, or auditor's certificate, to have been stolen, or by robbery to have been taken from the possession or custody of another. *c*

VIII. ALL and every statute and statutes, act and acts, clause or clauses thereof, within the purview of this act, (except as herein after provided) shall be, and are hereby repealed. *Provided always*, that nothing in this act contained, shall be construed to repeal the said statutes or acts, for so much of them as relates to any offence within the purview thereof, committed or done before the commencement of this act.

IX. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXXXIV.

An Act concerning Tithables; directing the Mode of laying and collecting the County Levy.†

[Passed the 27th of December, 1792.]

Who shall be deemed
tithables.

I. **B**E it enacted by the General Assembly, That all male persons of the age of sixteen years and upwards, and all female slaves of the age of sixteen years and upwards, shall be, and they are hereby declared to be tithable, and chargeable for defraying the county levies and poor rates, except such only as the county courts may, by reason of age, infirmity, or other charitable reasons, exempt from the payment of public taxes. *d*

Persons exempted.

II. *PROVIDED*, That nothing herein contained, shall be construed to extend to the governor for the time being, or to his domestic servants, or to the president, masters, scholars, or domestic servants of the college of *William and Mary*, or to the person of any ordained minister, or to the person of any constable, so long as he continues in office, so as to charge them, or either of them as tithables, within the meaning of this act. *e*

(a) May '83, ch. 10, sec. 35. (b) May '79, ch. 13, sec. 6. (c) *Ib.* ch. 4. Oct. 80, ch. 30. † Amended by act of 1796, ch. 27. (d) 1743, ch. 16, sec. 1, as altered by 1769, ch. 37, sec. 1 & 2. (e) 1748, ch. 16, sec. 2.

III. THE commissioners of the tax within the several counties of this commonwealth, shall, and they are hereby required and empowered, at the same period in each year in which they are collecting lists of the taxable property in their respective districts, under the act, intituled, "*An Act prescribing the mode of ascertaining the taxable property within this commonwealth, and of collecting the public revenue,*" to demand from each person, being tithable, or having in his or her possession such as are tithable, a written list of such as are tithable persons in his or her family; which lists the said commissioners, respectively, shall arrange in an alphabetical table, and on or before the last day of May annually, together with the vouchers taken by them, as aforesaid, return to the clerks of the courts.

Lists of tithables to be taken by commissioners of the taxes,

IV. THE clerks of the several county courts, shall at their next court, after the table containing the list of tithables as aforesaid shall be returned to them, set up in the courthouse of their county, fair copies of such tables. *a*

Clerks to set up copies thereof in the court-houses.

V. THE master or owner of a family, or in his or her absence, or non-residence at the plantation, his or her agent, attorney, or overseer, shall at the time appointed by this act, in a list under his or her hand, deliver or cause to be delivered, to the commissioner of the tax for that district, the names and numbers of all tithables abiding in, or belonging to his or her family, the ninth day of March preceding the time of delivering in such list; or the master or owner thereof, or in case of his or her absence or non-residence, the overseer, shall be adjudged a concealer of such and so many tithables as shall not be listed or given in; and for every tithable person so concealed, shall forfeit and pay ten dollars; one moiety for the use of the county, towards lessening the levy thereof, and the other moiety to the use of the informer; to be recovered by action of debt or information, in any court of record. And when any overseer shall fail to list the tithables on any plantation whereon he is overseer, the master or owner shall be subject to the payment of their levies, in the same manner as he would have been, if they had been listed. And if any commissioner of the tax shall not truly list and enter the names and numbers of his own tithables in that district or county for which he is to return a list, he shall be adjudged a concealer, and for every tithable person so by him concealed and not listed, shall forfeit and pay twenty dollars, to be applied and recovered as aforesaid. *a*

Masters of families, their agents or overseers, to give in lists of their tithables.

Penalty for neglect

VI. *PROVIDED always,* That if any owner or overseer shall happen by sickness or otherwise to omit delivering his or her list to the commissioner of the tax at the time the same may be required, it shall be lawful for such person to send his or her list to the house of such commissioner at any time before he makes his return to the clerk of the county as aforesaid, which shall discharge him or her from the penalty aforesaid. *a*

Proviso.

VII. THE justices of the several counties within this commonwealth, shall, and they are hereby authorized and empowered, at their courts respectively, to be held in the month of June or July, annually, or as soon after as may be, if no court should be held in either of those months, to proceed to make up in their minutes, an account of all expenses incurred by the said court under authority of any law, chargeable on the county and remaining unpaid, stating therein the sums due, for what, and to whom due, and all credits owing to the said county. When the balance due from the county is thus ascertained, by deducting the sums due to the county, from those owing by the county, the said justices shall proceed to levy and assess on the tithable persons in their respective counties, the amount of that balance in equal proportions. The sums due to the county, and the sum to be assessed on the tithables being added together, shall then be appropriated by the court, so as to shew the right of each county creditor, and the amount of his demand.

County levy when and how to be assessed.

VIII. THE clerks of the county courts respectively, shall within ten days after the levy has been apportioned by the court as aforesaid, deliver to the sheriff or collector, a list of the persons as aforesaid chargeable with the payment of levies, and the sum to be paid by each for his county rate, and also a list of the sums due to the said county, and of the persons from whom due; as also of the persons to whom the same ought to be paid, with the amount of their respective demands; the said sheriff or collector shall immediately proceed to collect from the persons chargeable therewith, the sums due to the said county, and the county rate settled as aforesaid, with the same powers and for the same commission, as in the case of public taxes; and shall pay the same to the county creditors according to their respective demands.

List thereof to be delivered to the collector.

His duty, powers, and commission.

Remedy against him for failing to account for and pay the money received.

IX. IF any sheriff or county collector shall fail to account with and satisfy the county creditors as aforesaid, the respective sums levied for them or either of them within six months after the levy shall be laid, or shall fail to adjust and settle the account of his collection with the county within the said six months, it shall and may be lawful for any county creditor who may be injured by such delinquency, to obtain judgment against such sheriff or collector, his or their heirs, executors, administrators, or securities, in the court of that county where the delinquency happened, upon giving ten days previous notice to such delinquent sheriff or collector, his or their heirs, executors, administrators, or securities. And it shall and may be lawful, where such sheriff or collector fails to account with the county as aforesaid, for the court of that county before whom he ought to account, to enter judgment against such delinquent sheriff or collector, for whatever shall appear to be due from such sheriff or collector, and award execution thereon, giving such sheriff ten days previous notice of such proceeding.

County court to appoint the sheriff, or any other, collector, and take bond with security of him.

X. THE court of each county shall, and they are hereby authorized and empowered, at the time of settling their county levy as aforesaid, to appoint the sheriff of their county, or any other person, collector of their county levies, taking from the person so appointed, a bond, in the penalty at least of double the sum to be collected, payable to the justices of the county so appointing him, with two or more responsible sureties, conditioned for the faithful collection, accounting for, and paying the several sums wherewith he shall be chargeable as sheriff or collector of the county, in the manner directed by law.

Penalty on a commissioner of the tax for not taking the list of tithables.

XI. EACH commissioner of the tax, failing to take or return the list of tithables as directed by this act, shall forfeit and pay forty dollars; one moiety for the use of the county towards lessening the county levies, and the other moiety to the informer; to be recovered by action of debt or information in any court of record.

On the clerk for failing to publish the list.

XII. IF any clerk of the county courts shall fail to publish in their court-houses the list of tithables, as herein before is directed, or shall fail to deliver to the collector of the county levies, the lists hereby required to be delivered to him, at the time and in the manner required by this act, such clerk so omitting, shall for each offence, forfeit and pay the sum of thirty dollars; to be applied and recovered as aforesaid.

Collectors may appoint deputies.

XIII. EACH collector of the county levies appointed as aforesaid by the court, may appoint one or more deputies to assist him in his collections, for whose conduct he shall be answerable, which deputies shall have the same power as the collector himself; and such collector shall have the same remedy and mode of recovery against his deputies or either of them, and their securities respectively, for any sums of money, which by virtue of this act, such collector may be subjected to the payment of, on account of the transactions of any of his deputies, as the collector himself is subject to by law.

Repealing clause. *Proviso.*

XIV. ALL acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed; *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, penalties or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

Commencement of this act.

XV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXXXV.

An Act reducing into one, the several Acts of Assembly, for the Inspection of Tobacco.

[Passed the 29th of November, 1792.]

Tobacco to be exported, but in casks, & inspected.

BE it enacted by the General Assembly, That no tobacco shall be shipped or exported from this commonwealth, unless the same shall be packed in hogheads or casks, taken from some public warehouse herein after mentioned, and received and inspected according to the directions of this act.

Warehouses established.

II. PUBLIC warehouses for the reception of tobacco pursuant to this act, shall be kept at the several places herein after mentioned, that is to say: in the county of Accomack, at Pitt's landing, upon Potomack, at Guilford, and at Punguetaque, under one inspection; in the county of Gloucester, at Key's; in the county

of *Dinwiddie*, at *Bolling's point*, *Bollingbrooke*, and *Cedar point*; in the county of *Essex*, at *Hobb's Hole*, at *Bowler's*, and at *Layton's*; in the county of *Fairfax*, at *Colchester*, *Alexandria*, and the *Falls of Patowmac*; in the county of *Gloucester*, at *Peropotank*, and at *Deacon's neck*; in the county of *Hanover*, at *Page's*, *Crutchfield's*, and *Meriwether's*; in the county of *Chesterfield*, at *Rocky Ridge*, *Osborne's*, at *John Bolling's*, on the lands of *Jacob Rubsaman*, in the town of *Manchester*, to be called and known by the name of *Manchester*, on the lots of *Alexander* and *Peterfield Trent*, in the town of *Manchester*, distinguished in the plan thereof by the numbers two hundred and nine, two hundred and ten, two hundred and twenty-one, and two hundred and twenty-two, to be called and known by the name of *Trent's warehouse*, and on those of *Edward Johnson*, deceased, in the said town, to be called and known by the name of *Johnson's warehouse*; in the county of *Henrico*, at *Byrd's*, *Shockæ*, and *Rockett's*; in the county of *Isle of Wight*, at *Smithfield*, and at *Fulgham's*, under one inspection; in the county of *King and Queen*, at *Shepherd's*, at *Mantapike*, and at *Frazer's*, in *King William*, under one inspection, and at *Todd's* in *King and Queen*, and at *Aylett's* in *King William*, under one inspection; in the county of *King George*, at *Boyd's Hole*, and *Machodack*, under one inspection, and at *Gibson's*, to be called and known by the name of *Gibson's warehouse*; in the county of *Lancaster*, at *Davis's* and *Lowry's*, under one inspection, and at *Deep creek* and *Glascock's*, under one inspection; in the county of *Northumberland*, at *North and South Wicomico*, under one inspection, at *Coan's*, in the said county, and at *Indian creek* in the said county, and at *Dymer's* in the county of *Lancaster*, under one inspection; in the county of *Middlesex*, at *Urbanna*, and at the place where *Kemp's warehouse* formerly stood up *Pianketank river*; in the county of *Nansemond*, at *Milner's* and *Suffolk*; in the county of *Northampton*, at *Cherrystones* and *Naswaddox*, under one inspection; in the county of *New-Kent*, at *Littlepage's* and the *Brickhouse*; in the county of *Prince George*, at *Hood's*, *Boyd's*, *Davis's*, and *Blandford*; in the county of *Prince William*, at *Quantico*, *Dumfries*, a place called *Rocks*, on *Quantico creek*, to be called and known by the name of *M^r Rae's warehouse*, and in the town of *Newport*, on the lots of *Cuthbert Bullitt*, to be called and known by the name of *Bullitt's warehouse*; in the county of *Richmond*, at *Car point*, and *Totuskee*; in the county of *Surry*, at *Gray's creek*, and *Low point*; in the county of *Stafford*, at *Falmouth*, at *Acquia*, and at *Dixon's*; in the county of *Spotsylvania*, at *Fredericksburg*, and at *Royston's*; in the county of *Westmoreland*, at *Nomony*, at *Leed's*, and *Maddox*, under one inspection; at *Yeocomico* and *Kinsale*, under one inspection; at the *College Landing* in the county of *James City*, and at *York town* in the county of *York*; at *Hampton* in the county of *Elizabeth City*; in the county of *Botetourt*, on the lands of *William Crow*, at *Crow's ferry*, to be called and known by the name of *Crow's warehouse*; in the county of *Hampshire*, at the confluence of the north and south branches of the river *Patowmac*, on the lands of *Thomas Cresap*, to be called and known by the name of *Cresap's warehouse*; and in the town of *Romney*, to be called and known by the name of *Romney warehouse*; in the county of *Campbell*, at *Lynch's ferry*, to be called and known by the name of *Lynch's warehouse*; in the county of *Fluvanna*, at the *Point of Fork*, on the lands of *David Ross*, to be called and known by the name of *Rivanna warehouse*; in the county of *Amherst*, on the north side of *James River*, below *Swan's creek*, on the lands of *Nicholas Cabell*, to be called and known by the name of *Swan creek warehouse*; in the county of *Berkeley*, on the lands of *Abraham Shepherd*, near the town of *Mecklenburg*, to be called and known by the name of *Mecklenburg warehouse*; on the lands of *William Barksdale*, in the town of *Petersburg*, to be called and known by the name of *Barksdale's warehouse*; on the lands of *Robert Bolling*, junior, in the said town, adjoining his present dwelling-house, to be called and known by the name of *West-hill warehouse*; on the lands of *Alexander G. Straghan*, in *High-Street* in the said town, to be called and known by the name of *High-Street warehouse*; on the lots of *Thomas Shore* and *George Wilson*, likewise in the said town, to be called and known by the name of *Westbrook warehouse*; and on the lands of *Elizabeth Spencer*, *Ann Swann Saunders*, and *Daniel Woolbridge* in the said town, to be called and known by the name of *Petersburg warehouse*; in the county of *Albemarle*, on the lands of *Bennett Henderson*, at the place called the *Shallows*, on the *Rivanna river*, to be called and known by the name of *Henderson's warehouse*; and on the lands of *Wilson Cary Nicholas*, at the mouth of *Ballenger's creek*, in the said county, to be called and known by the name of *Nicholas's warehouse*; in the county of *Monongalia*, at *Morgan-Town*, to be called and known by the name of *Morgan-Town*

warehouse; in the county of *Loudoun*, at the *Great Falls* of the *Patowmac*, to be called and known by the name of the *Great Falls* warehouse; in the county of *Cumberland*, on the lands of *John Woodson*, at *Carter's* ferry, to be called and known by the name of *Woodson's* warehouse; in the county of *Norfolk*, on the lands of *Thomas Veal*, in the town of *Portsmouth*, to be called and known by the name of *Portsmouth* warehouse; in the county of *Fairfax*, on the lands of *William Thornton Alexander*, in the town of *Alexandria*, to be called and known by the name of *Thornton's*; in the county of *Amherst*, on the lands of *John Lynch*, at his ferry, to be called and known by the name of *Amherst* warehouse; in the county of *Halifax* on the lands of *Richard Booker*, at *Booker's* ferry, on the *Staunton* river, to be called and known by the name of *Booker's* warehouse; in the county of *Buckingham*, on the lands of *John Horsey*, at the mouth of *Bent* creek, to be called and known by the name of *Horsey's* warehouse.

Rents of warehouses.

III. THE rents of the several warehouses hereby established, shall be, and they are hereby established at the following rates: At *Pitt's* and *Guildford's*, thirty-three dollars and thirty-three cents; at *Pungoteague*, twenty-six dollars and sixty-seven cents; at *Cherrystones* and *Naswaddox*, twenty-six dollars, and sixty-seven cents; at *Hampton*, thirty-three dollars and thirty-three cents; at the *College Landing*, thirty-three dollars and thirty-three cents; and at all the other warehouses, there shall be allowed and paid for the rents for the same, twenty-five cents for every hoghead of tobacco that already has been or shall be received, inspected and delivered out of such warehouses respectively, except as herein after excepted. And there shall be paid to the proprietors of each warehouse, for all tobacco lying therein, more than twelve months, at the rate of five cents *per* month for each hoghead, to be paid by the shipper thereof, at the time of shipping the same.

Proprietors of warehouses to let them to the inspectors.

IV. WHERE the warehouses are already built at any of the places herein before mentioned, and appointed for keeping the same, and are now made use of for public warehouses, the proprietors and owners of such warehouses shall be, and they are hereby obliged to let the same to the inspectors during the continuance of this act, at the rent hereby established for such warehouses respectively, and if any proprietor or owner shall refuse so to do, he shall forfeit and pay fifteen hundred dollars; and where warehouses are not already built at any of the places aforesaid, or where any new warehouses shall be hereafter appointed to be kept at any other place, it shall be lawful for the justices of the court of that county wherein such place is, or shall be, and they are hereby required, at the next court to be held for their county after such new warehouse shall be so appointed, to order and direct so many strong, close, and substantial houses, secured with strong doors, hung on iron hinges, and with strong locks or bolts, as will contain sufficient room for two thirds of the number of hogheads, which in their opinion will be annually brought to the same, and one brick square or funnel six feet high at least, and four feet diameter, with a proper arch at the bottom of the same, for burning tobacco refused and picked, at such warehouses, and such other conveniences as shall be necessary; and shall cause the owner or proprietor of the land where such warehouses are appointed to be kept, and if such owner or proprietor be under age, *feme covert*, or out of the country, then the guardian, husband, or known attorney, or agent, (as the case may be) of such owner or proprietor, to be summoned to appear before them at the next succeeding county court after such summons shall issue, there to declare whether they will undertake to erect and build such houses, funnel, and other conveniences, and let the same to the inspectors appointed to attend at such warehouses at the rent settled by this act, or which shall be hereafter settled for the same; and in case such owner, guardian, husband, known attorney, or agent, will undertake the same, then the said court shall, and they are hereby required, to take bond with sufficient security, in a reasonable penalty, payable to the governor and his successors, to the use of the commonwealth, with condition for the due performance of such undertaking. And if such owner, guardian, husband, known attorney, or agent, shall refuse to undertake the same; or give such bond as aforesaid, then it shall be lawful for the said justices, and they are hereby required, to value an acre of the said land, and to pay or tender to the proprietor, his or her guardian, husband, known attorney, or agent, the value thereof, which shall be repaid to the said justices by the public, and from thenceforth the justices of the county for the time being, shall be seized in fee of the said land in trust, and for the use of the public, during the time the said place shall be made use of for a public warehouse; and the said justices shall agree with some person or persons to erect and build thereon, such houses, funnels, and o-

County courts to direct the number and kind of new warehouses.

And take bond with security of the proprietor if he chooses to build & let them.

If he refuses, the land to be paid for and the warehouses to be built at the expense of the public, and the rents to be paid to the treasurer.

ther conveniences as is herein before directed, and shall certify the charge thereof to the treasurer of this state for the time being, who is hereby directed and required to pay the same out of the public money in his hands arising from the inspection of tobacco, and shall take and receive of the inspectors the rent established at such warehouses for reimbursing the public the charge of such buildings, until the same shall be repaid with lawful interest. And where the justices of any county court, or any other person or persons, have already built warehouses on lands of another person by virtue of, or in pursuance of the laws lately or now in force, the said justices, or other person or persons, shall in like manner be seized in fee of the acre of land upon which such warehouses are built, so long as the said places respectively shall be made use of for public warehouses; but if any of the warehouses which are or shall be built by the public, the justices, or other persons, shall hereafter be discontinued, the proprietor of the land returning the price paid for the same, with lawful interest, shall be thenceforth seized of his former estate.

V. THE inspectors at the several warehouses shall, at the court to be held for their respective counties in the month of *September* yearly, or at the next succeeding court, produce and render into court an exact account under their hands, of the number of hogheads of tobacco inspected at their respective warehouses the preceding year, and of the condition of the warehouses under their charge, and the quantity of tobacco they are capable of containing, and thereupon such court, if they shall not be satisfied that the warehouses already built, at any of the said inspections, are properly secured, and contain sufficient room for two-thirds of the number of hogheads mentioned in such account, to be conveniently stored, shall enter an order that the owner or proprietor of such warehouses, shall within such reasonable time as the said court shall think fit to allow, repair and make close the warehouses already built, and secure the same with strong doors hung on iron hinges, and with strong locks or bolts; and that such owner or proprietor shall also, before the first day of *April*, in the ensuing year, erect, build, and completely finish, such and so many other strong, close, and substantial houses, as with the other houses already built, shall be sufficient, in the opinion of such court, conveniently to contain two-thirds of the quantity of tobacco mentioned in such inspector's account, and secure the same in manner herein before directed; a copy of which order shall be served on such owner or proprietor, or his or her guardian, husband, attorney, or agent, (as the case may be) and if such owner or proprietor, his or her guardian, husband, attorney, or agent, shall fail to appear at the next succeeding court, after such notice, and enter into bond with sufficient security in a reasonable penalty, payable to the governor, for the time being, and his successors, with a condition for the due performance of the same, then it shall be lawful for the said court, and they are hereby required, to cause such repairs and houses to be made and built as aforesaid, and shall certify the charge thereof to the treasurer of this state for the time being, who is hereby required to pay the same out of the public money in his hands arising from the inspection of tobacco, and shall take and receive from the inspectors the whole or a proportion of the rents established at such warehouses, for reimbursing the public the charge of such buildings and repairs, with interest thereon, which proportion shall be settled by the court, and by them certified to the treasurer.

VI. IF any county court shall fail or refuse to do their duty in directing such houses, funnels, and other necessary conveniences, at the places established by this act for erecting new warehouses, or such additional buildings and repairs at the places where houses are already built, and causing the same to be built or made according to the directions of this act, every justice so failing or refusing, shall forfeit and pay one hundred dollars, to be recovered in the district court, with costs, by action of debt, or information, against the justices jointly.

VII. *PROVIDED always*, That nothing herein contained, shall be construed to give power to the said justices to take away the houses, orchards, or other immediate conveniences of any proprietors of lands, for the purposes aforesaid, nor to the said inspectors to keep any horses, cattle, or hogs, at any public warehouses, except their riding horses, upon the land appointed for such warehouses; and if any swine belonging to the said inspectors, or any of them, shall be found at large upon the land appropriated for such warehouses, or the lands adjoining thereto, it shall be lawful for the proprietors of the said lands, to kill, or cause to be killed or destroyed, all such swine.

Where warehouses are discontinued, the land to revert to the former proprietor, he returning the price, &c.

Inspectors annually to lay before the court an account of tobacco inspected, and condition of the houses.

Court may order houses to be repaired or secured, and new houses built if necessary, by the proprietor or public.

Penalty on county courts for neglect.

Houses and other conveniences, not to be taken from proprietors.

Inspectors not to keep any horses, cattle, or hogs on the land.

How proprietor may be restored to his former estate.

But if he again fails to build or repair to be re-vested in the public.

Waste or destruction of warehouses, how to be punished.

Scales and weights to be provided.

And tried and repaired twice a year.

Tobacco to be viewed by the inspectors.

Manner of appointing inspectors.

VIII. *PROVIDED also*, That where any houses have been, or shall be built by the justices or other persons, as aforesaid, and the first proprietor of the land shall desire to have the same again, such proprietor, upon payment of so much money as shall be sufficient to reimburse the said justices, or other person, the principal money expended for the purchase of the land and the building such warehouses, with lawful interest, deducting the rents received by the said justices or other person, shall be restored to his former estate in the land whereon such warehouses are built, and shall receive the rents aforesaid growing due for such warehouses: *Provided also*, That if any proprietor so as aforesaid restored to his estate, shall neglect or refuse to build and repair such houses, as the court shall think necessary, the justices shall again be seized of the fee simple estate in such land during the time such place shall be made use of for a public warehouse, and such proprietor shall not have any benefit of the rents that shall hereafter become due.

IX. ON complaint being made by the owner or owners of any of the warehouses aforesaid, to any justice of the peace in the county where such warehouse shall lie, against any person or persons, for breaking, tearing, or committing any waste or destruction of, or in such warehouse or warehouses, it shall be lawful for such justice, and he is hereby empowered and required to give judgment and award execution against the body or estate of such offender, if found guilty, for all damages occasioned by such breaking, tearing, or waste, or destruction, provided such damages do not exceed the sum of five dollars in his opinion; and if such damages shall exceed that sum, then it shall be lawful for such owner or owners to commence and prosecute his or their action at law, against any such offender, in any court of record within this state, in which the plaintiff shall recover costs, although the damage shall be under seven dollars.

X. THERE shall be kept at every one of the said warehouses herein before appointed, and at all others hereafter to be appointed, a good and sufficient pair of scales with weights to weigh fifteen hundred pounds at the least, and a set of small weights, the same that are or ought to be provided for the standard weights of each county; and where such scales and weights are not already provided, or now are or shall hereafter be worn out, or become unfit for use, the justices of the respective county courts wherein any of the said warehouses are or shall be, are hereby directed and required to provide the same, with all convenient speed; and the treasurer for the time being is hereby empowered and required to pay the purchase money out of the public money in his hands arising from the inspection of tobacco, and moreover the said justices are hereby required and directed, twice in every year at least, to appoint one or more of their number to view the said scales, and examine and try the weights at the several warehouses by the standard weights of the county; and if the said scales and weights shall want repairing, or the weights be found deficient, or differing from the lawful standard, the said justices shall cause the same to be repaired and mended, and the weights made conformable to the standard; and if the justice or justices so appointed, shall refuse or neglect to do the same, the justice or justices so refusing, shall forfeit and pay the sum of one hundred and fifty dollars; and the charge of repairing and mending the said scales and weights, and also for removing the standard to the several warehouses for trying the same, shall be paid by the inspectors respectively, and be again allowed to them in their accounts with the treasurer.

XI. ALL tobacco which shall be brought to any of the public warehouses shall be viewed, inspected and examined by two persons to be thereunto appointed, who shall be called inspectors, which said inspectors shall be appointed in the following manner, that is to say: The courts of the several counties within this state, wherein any of the public warehouses appointed by this act are established, shall, and they are hereby required, once in every year and no oftener, at their respective county courts held in the months of *August* or *September*, to nominate and recommend to the governor for the time being, for so many offices of inspection as are or shall be in their respective counties, four fit and able persons reputed to be skilful in tobacco, for the execution of the office of inspectors; and where two warehouses under one and the same inspection happen to lie in different counties, in that case the court of each county shall nominate and recommend two for such inspection, which nomination the said courts shall cause to be entered upon record, and the clerks of the said courts shall, and they are hereby required forthwith to transmit a certificate of the same to the clerk of the council; and out of the said four persons nomi-

nated and recommended for each inspection, the governor, with advice and consent of council, shall choose and appoint two to execute the office of inspectors at such inspection; and in default of such nomination or recommendation by the county courts as aforesaid, the governor, with the like advice and consent, shall appoint such persons as he shall think fit to be inspectors at such inspection, for which no nomination or recommendation shall be made as aforesaid, and also in case of the death, resignation, or removal of any inspector, the governor shall, and may appoint any person named in the last recommendation from the county court, for that inspection where the vacancy shall happen, to succeed him until the next nomination and appointment of inspectors; but if either of the persons named in such last recommendation, will not accept the said office, in that case, the governor, with the advice and consent of the council, may appoint any other person they shall think fit; and besides the two inspectors appointed as aforesaid, the governor, for the time being, with the advice of the council, shall appoint one of the persons recommended with such inspectors, to be additional inspector at the warehouse for which he shall be recommended; which additional inspector shall officiate as such, only in cases of disagreement in opinion of the other inspectors as to the quality of tobacco brought to their inspection, or where either of them shall through sickness or otherwise be absent from his duty, or shall bring his own tobacco to the warehouse whereof he is inspector, to be viewed; and the said additional inspector shall be paid for the services he shall perform, by occasion of the absence of either of the other inspectors, out of the salary of such absentee, in proportion to the time he shall officiate.

Additional inspectors
to be appointed.
When to act.

XII. IF any inspector shall hereafter accept, receive or take, directly or indirectly, any fee, gratuity, service or reward whatsoever, of any person for resigning or giving up his office of inspector, he shall not only be forever disabled from holding the like office, but for such offence shall forfeit and pay the sum of six hundred dollars, to be recovered with costs, by action of debt, in any court of record within this state, by any person suing for the same; and every person offering or paying directly or indirectly, any fee, service, gratuity, or reward whatsoever, to any inspector to resign his said office, shall for the said offence be forever disabled from holding the office of inspector within this state.

No inspector to take a
reward for resigning.

Penalty on giver and
receiver.

XIII. PROVIDED always, That no justice of the peace recommended to be an inspector, shall be allowed to vote in nomination and recommendation of persons to be inspectors as aforesaid, and where any person once recommended as aforesaid, and executing the office of inspector in pursuance of such recommendation, shall be again recommended the succeeding year, the same shall be a sufficient appointment to him to continue in the said office for another year, without any new commission, and so from year to year, so long as he shall be so recommended as aforesaid. *Provided nevertheless*, that each inspector shall annually renew his bond, and give security for the faithful discharge of his duty.

No justice of the peace
recommended as an in-
spector, to vote in re-
commendation
Inspector in office, re-
commended, to conti-
nue without new com-
mission, but shall an-
nually renew his bond
for the due discharge
of his duty.

XIV. EVERY person appointed, or to be appointed inspector by virtue of this act, shall before he enters upon the execution of the said office, enter into bond with good security in the penalty of four thousand dollars, payable to the governor for the time being, and his successors, with condition for the true and faithful performance of his duty, according to the directions of this act, which bond shall be recorded in the county, and transmitted by the clerk of the court to the treasurer, under the penalty of three hundred dollars, who shall move for judgment against every inspector failing to discharge the same within two months after failure, under the penalty of three hundred dollars; and every such inspector shall also take the following oath, at the time he gives bond, that is to say:

Inspectors to give bond
with security and take
an oath.

YOU shall swear that you will diligently and carefully view and examine all tobacco brought to the public warehouse or warehouses where you are appointed inspector, and that not separately and apart from your fellow, but in his presence; and that you will not receive or pass any tobacco that is not in your judgment sound, well conditioned, merchantable, and clear of trash, nor receive, pass or stamp any tobacco hogsheads or casks of tobacco contrary to the true intent and meaning of this act, nor refuse any tobacco that in your judgment is sound, well conditioned, merchantable, and clear of trash, and that you will not change, alter, or give out any tobacco, other than such hogsheads or casks, for which the receipt to be taken,

The oath.

was given, but that you will in all things well and faithfully discharge your duty in the office of inspector, according to the best of your skill and judgment, and according to the directions of this act, without fear, favor, affection, malice, or partiality. So help you GOD.

Which oath shall be taken before the governor of this state for the time being, before the district court, or in the court of the county wherein such inspector shall reside, or the warehouses at which he shall be appointed inspector shall stand; but before any inspector shall enter upon the execution of his office, he shall produce a certificate, if sworn before the governor or district court, (as the case may be) of his having taken such oath, which certificate shall be lodged with the clerk of the county where such inspector shall be; and if any person shall presume to execute the office of inspector before he shall have given such bond, and taken such oath as aforesaid, he shall forfeit and pay two thousand dollars.

Penalty for acting without qualifying.
Time inspectors are to attend:

XV. ALL inspectors to be appointed by virtue of this act, shall constantly attend their duty at the warehouse or warehouses under their charge, from the first day of October, to the tenth day of August, yearly, except Sundays, and the holy days observed at Christmas, Easter, and Whitsuntide, or when hindered by sickness; and afterwards they or one of them shall constantly attend at the same, except on Sundays, to deliver out tobacco for exportation, until all the tobacco remaining there the said tenth day of August shall be delivered: But no inspector shall be obliged to view any tobacco between the said tenth day of August, and the first day of October, except such as remained in the warehouse on the said tenth day of August; and every inspector neglecting to attend as aforesaid, shall forfeit and pay to the party grieved, one dollar for every neglect, or shall be liable to an action upon the case, at the suit of the party grieved, to recover all such damages as he or they shall have sustained by occasion of any such neglect, together with his or their full costs, at the election of such party.

Penalty for not attending.

Tobacco to be entered as brought in and viewed in due turn.

XVI. AND that all persons having tobacco at the public warehouses, may have equal justice, the inspectors shall enter in a book to be kept for that purpose, the marks and owners' names of all tobacco brought to their respective warehouses for inspection as the same shall be brought in, and shall view and inspect the same in due turn as it shall be entered in such book, without favor or partiality; and shall uncase and break every hogshead or cask of tobacco brought them to be inspected as aforesaid; and if they shall agree that the same is good, sound, well conditioned, merchantable, and clear of trash, then such tobacco shall be weighed in scales with weights of the lawful standard, and the hogshead or cask shall be stamped in the presence of the said inspectors, or one of them, with the name of the warehouse at which inspected, and also the tare of the hogshead or cask, and quantity of nett tobacco therein contained; and the inspectors at such warehouses shall issue a receipt for each hogshead of tobacco they shall pass, if required by the owner; which receipt shall be in the form following, to wit:

Each hogshead to be uncase and viewed, & if found good, stamped, and receipt given.

Form of the receipt for crop tobacco.	the		River,	Warehouse	Received of
	the		day of	17 ,	hogsheads
	Sweet scented.			Oronoko.	of crop tobacco,
	Leaf.		Stemmed.	Leaf.	marks, numbers,
					weights, & species
					as per margin; to
					be delivered by us
					to the said
					or his order, for
					exportation, when
					demand. Wit-
Marks. No. Gros. Tare. Nett. Gros. Tare. Nett. Gros. Tare. Nett.					ness our hands.

Which is to be printed, And no inspector or inspectors, shall under any pretence whatsoever, issue a receipt for any tobacco other than such as shall be printed, in which the date shall be inserted at full length. And if any inspector or inspectors, shall presume to issue a receipt in any other manner than is hereby expressed, he or they, for every such offence, shall forfeit and pay the sum of three hundred dollars; to be recovered with costs, by any person who may sue for the same, in any court of record within this state: Which receipts as aforesaid, shall be furnished by the public printer, and at the public expense: But if the said two inspectors shall at any time disagree concerning the quality of any tobacco

Where the inspectors disagree concerning the

brought for their inspection to any warehouse under their charge, they shall as soon as conveniently may be, call in the additional inspector appointed to attend such warehouse, who shall determine and pass or reject such tobacco; and if he shall pass the same, his name shall be entered in a book kept by the inspectors, opposite the mark, number and weight of the hogshead by him passed, together with the name of the inspector at such warehouse who shall officiate with him. And the inspectors at each of the warehouses established by this act, shall constantly keep so many able hands at their respective warehouses as the courts of the several counties wherein they lie, shall from time to time judge necessary, and direct, for the purpose of taking care of all tobacco brought to such warehouse, and stowing it away after the same shall be inspected and stamped. And no inspector shall by himself, his servant, or any other person, either directly or indirectly, be concerned in picking any refused tobacco, unless it be his own property, on any pretence whatsoever, under the penalty of being forever thereafter disabled from holding the office of inspector.

What hands the inspectors shall keep.

Inspectors or their servants not to be concerned in picking tobacco.

XVII. WHEN any tobacco shall be refused by the inspectors, the proprietor thereof shall be at liberty to separate the good from the bad, but if he refuses or neglects so to do within two months of such refusal, the inspectors shall direct one or more of the pickers attending the warehouse, to pick and separate such refused tobacco, and give the owner credit for so much thereof as shall be found merchantable, after paying the pickers one twelfth part of the quantity saved; and the inspectors shall cause the tobacco which shall by them be judged unfit to pass, to be burned in the brick funnel, erected, or to be erected at such warehouse, under the penalty of seven dollars for every failure, to the informer; recoverable with costs, before any justice of the county wherein such warehouse shall be. *Provided always*, That any picker refusing to pick and separate refused tobacco, when directed by an inspector, shall forfeit and pay five dollars, to the use of the owner of such tobacco; recoverable with costs, before any justice of the county or corporation.

Owner may pick refused tobacco, but if he refuses, the pickers shall do it.

Penalty on picker refusing to pick tobacco.

XVIII. THE courts of the several counties wherein any of the public warehouses appointed by this act are established, shall, and they are hereby required to nominate and appoint from time to time, such and so many persons as to them shall seem necessary, who are willing to undertake the same, to attend the several warehouses within this state, to turn up, sort, separate and pick such tobacco as shall be refused by the inspectors. And every person so appointed a picker, shall make oath before the court at the time of his appointment, or at the next succeeding court, that he will carefully and diligently, without fraud or embezzlement, sort and separate all such tobacco, as shall be refused by the inspectors, and the owner or proprietor thereof, or the inspectors, shall employ him to pick; and every picker of tobacco shall be allowed to demand and receive from the respective proprietors, twenty-one cents per hogshead for opening, and one twelfth part of all the tobacco saved out of any refused hogshead by him picked, for his services in opening, sorting, and picking the same, and no more. And no picker of tobacco shall keep or employ any negro or mulatto slave at any public warehouse, on any pretence whatever; nor shall any picker presume to hinder any person who may choose to open their own tobacco, or to pick what may be refused by the inspectors, from the free use of the picking-house and prize, for the convenience of picking or prizing the same. And if any picker shall misbehave himself in his said office, it shall and may be lawful for the court of the county where such picker shall be appointed, on complaint and motion to them made, to remove such picker from his said office, and to appoint another person to act in his room, if to them it shall seem necessary; and every picker so removed, shall for ever after be rendered incapable of serving as picker at any public warehouse; *Provided* such picker hath ten days previous notice of such motion; and any person who shall be aggrieved by any such misbehaviour in a picker, may make complaint thereof to any justice of the peace, who is hereby empowered and directed to take depositions therein, provided such picker have notice thereof, and to transmit the same to the next court to be held for the county, where the offence shall be committed, to be there given in evidence on the examination into such misbehaviour. And if any person not being appointed and sworn as aforesaid, shall presume to undertake the opening, sorting, picking, or separating any such tobacco for hire or reward, every person so offending shall forfeit and pay four dollars for every such offence; to be recovered by the informer, to his own use, before any justice of the peace. *Provided*, That any proprietor of tobacco, who may choose to open, pick and prize his own tobacco, may employ his own servants

Pickers how to be appointed.

Their oath.

Allowance.

Duty.

How punished for misbehaviour.

Penalty for picking without being so appointed, except by the proprietor, his hands, or others.

Pickers not to prize up
their tobacco saved by
picking.

Overseers liable for to-
bacco refused & burnt

Penalty on inspector
for being concerned
with a picker as a part-
ner or receiving any
thing from him.

On a picker for the
same, or for receiving
more than the legal fee.

or slaves, or any other person or persons, other than the hands kept by the inspectors, to assist him in opening, picking, or prizing the same, and the person or persons so employed, shall not incur or be subject to the last mentioned, or any other penalty or forfeiture for so doing; and the inspectors shall issue receipts for all tobacco saved by picking, to the proprietors only of such tobacco, and not to the pickers of the same. And the inspectors shall not suffer or permit any picker to prize up any tobacco that he shall have saved by picking, for his own use. And if any tobacco picked in any hogshhead or cask by an overseer, or the hands under his care, shall be burnt by the inspectors, by reason of its being bad, unsound, or not in good condition, the overseer, who had the care of making and packing the same, shall be at the loss of the tobacco so burnt, and make satisfaction for the same out of his share of the crop, or otherwise; and the inspectors shall be obliged to keep an account of all tobacco so burnt.

XIX. IF any inspector of tobacco shall in any manner be concerned as a partner with, or receive from any picker of tobacco, money or any gratuity, every inspector herein offending, on conviction, before any court of record, shall forfeit and pay two thousand dollars to the prosecutor, to be recovered by action of debt with costs; and shall moreover be rendered incapable of serving as an inspector. Every picker who shall be concerned as above with an inspector, or who shall demand, take or receive any greater fee or reward for his services, other than by law allowed, shall forfeit and pay, on conviction, to the person prosecuting, three hundred dollars, to be recovered in like manner, and shall for ever after be incapable of acting in any character at a public warehouse.

XX. WHERE any tobacco shall be brought to any of the said warehouses for the discharge of any public or private debt or contract, the said inspectors, or one of them, after they have viewed, examined and weighed the said tobacco, according to the directions of this act, shall be obliged to deliver to the person bringing the same, as many receipts under the hands of the said inspectors as shall be required for the full quantity of tobacco received by them, in which shall be expressed whether the tobacco so received, be sweet scented, or Oronoko, stemmed or leaf; which receipt shall be in the form following, to wit:

R I V E R, No.

warehouse, the

day of

17

pounds of transfer to-

Form of transfer re-
ceipts.

RECEIVED of _____
bacco, to be delivered on demand to _____, or to his order, according to the di-
rections of the act, intituled, "An act for mending the staple of tobacco, and
preventing fraud." Witness our hands.

Their date and curren-
cy.

And shall bear date the _____ day the tobacco for which the same is given shall be
received and passed, and shall be current in all tobacco payments, according to
the species expressed in the receipt, within the county wherein such inspectors
shall officiate, and in any other county next adjacent thereto, and not separate
therefrom by any of the great rivers or bay herein after mentioned, that is to
say: James river below the mouth of Appamattox; York below West-point;
Rappa-annock below Taliaferro's Mount; or by the bay of Chesapeake; and
shall be transferrable from one to another in all such payments, except as herein
is excepted, and shall be paid and satisfied by the inspector or inspectors who
signed the same, upon demand. And for every hogshhead of tobacco brought
to any public warehouse and transferred, there shall be allowed by the inspec-
tors thereof to the person bringing the same, after the rate of four pounds of to-
bacco for every hundred pounds of tobacco the said hogshhead shall contain, for
the cask, so as such allowance do not exceed thirty pounds of tobacco, provided
the cask or hogshhead is good, and of such dimensions as is herein after expres-
sed; and the said inspectors shall, and they are hereby obliged to make every
hogshhead by them paid away in discharge of any receipt by them given as afore-
said, to contain one thousand pounds of nett tobacco at the least; and for every
hogshhead of tobacco by them paid away, well lined and nailed, fit for ship-
ping, there shall be paid by the person shipping such hogshhead, one dollar for
inspection, and fifty-eight cents for prizing, and nails; which said sum of fifty-
eight cents, the inspectors may retain in their hands for their own use, to reim-
burse them the expense and trouble of providing nails and prizing. And the
person demanding or receiving tobacco in discharge of receipts as aforesaid,
shall allow to the inspectors thirty pounds of tobacco for each hogshhead so re-
ceived, for the cask, and two pounds of tobacco for every hundred pounds of
tobacco contained in such receipts, and so in proportion for a greater or lesser

Allowance for cask.

Weight of tobacco
prized in discharge of
receipts.

One dollar for inspec-
tion, and fifty-eight
cents for prizing and
nails.

Allowance for cask and
drinking

quantity, for shrinkage and wasting, if the said tobacco be paid within two months after the date of the receipt given for the same, and one pound of tobacco for every hundred, for every month the same shall be unpaid after the said allowance; so as such allowance for shrinkage and wasting do not exceed in the whole six pounds of tobacco for every hundred. And if any inspector or inspectors, by whom any such receipts for tobacco as aforesaid shall be signed, shall refuse or delay to pay and satisfy the same when demanded, every inspector so refusing or delaying, shall forfeit and pay to the party injured, double the tobacco so refused or delayed to be paid, to be recovered with costs in any court of record within this state, if the receipt or receipts so refused or delayed to be paid, exceed two hundred pounds of tobacco; and if the said receipt or receipts do not exceed two hundred pounds of tobacco, the double value aforesaid shall and may be recovered before any justice of the peace of the county wherein the warehouse shall be, at which the receipt or receipts ought to be paid.

Remedy against inspectors.

XXI. ALL tobacco brought to any of the said warehouses in hogheads to be exported, on account, and for the use of the owner thereof, after the same shall have been received, examined, found to be good, and weighed, shall be stamped as herein before directed; and the said inspectors, or one of them, shall deliver to the person bringing the same, as many receipts, signed as aforesaid, as shall be required for the number of hogheads so brought and stamped, in which shall be expressed, whether the tobacco so received, be sweet scented or Oronoko, stemmed or leaf, and whether the same be tied up in bundles or not; and where any hoghead hath part leaf and part stemmed, shall signify the same at the bottom of the receipt; and they shall not mix stemmed and leaf tobacco in any hoghead which they shall prize, and pay away in discharge of their transfer receipts; and for every hoghead brought to any of the said warehouses, to be exported by land or by water out of this state, there shall be paid to the inspectors attending at such warehouses, by the exporter, at the time of demanding the same for exportation, the sum of one dollar, and the owners of the tobacco shall find and provide nails sufficient for securing and nailing thereof; and where they shall fail to do, the inspectors at such warehouse, shall furnish nails for the purpose aforesaid, and shall be allowed and paid by the owner, thirteen cents for each hoghead so secured. And if any inspector or inspectors, shall alter, change or deliver out any hoghead of tobacco, other than the hoghead for which the receipt for crop tobacco to be taken in, was by him or them given; or shall alter or change any such tobacco, although no such receipt shall have been given, such inspector or inspectors shall forfeit and pay one hundred and fifty dollars for every hoghead so altered, changed or delivered out. And if any inspector shall fail or refuse to deliver any hoghead of tobacco, when the same shall be demanded for exportation, such inspectors shall forfeit and pay to the owner thereof, double the value of the tobacco, which they shall refuse or fail to deliver. And all inspectors shall, and they are hereby obliged, if required, to take in any receipt or receipts by them given for crop tobacco; and after having weighed such tobacco, to give transfer receipts for the same, with an allowance of four *per centum* for the cask; so as such allowance do not exceed thirty pounds of tobacco for every cask. *Provided*, that such hoghead shall contain, at least, one thousand pounds of nett tobacco, and not mixed leaf and stemmed. *Provided nevertheless*, that no inspectors shall give their receipt or receipts for any transfer or crop tobacco, which shall be opened or picked by any picker legally appointed, until the proprietor of such tobacco, or his or her agent, shall have first paid or tendered to such picker, his lawful charges for opening or picking the same. And in the absence of any such picker, a payment, or tender to any of the inspectors there attending, for the use of the picker, shall be as effectual as if made to such picker in person. And if any inspectors shall deliver their receipt or receipts for any such tobacco, so opened or picked, before such payment or tender be made, they shall be liable to such picker for the amount of the same.

How receipts are to be given for crop tobacco.

Inspection tax of one dollar to be paid by the exporter.

Penalty on inspectors changing tobacco,

or failing to deliver it when demanded.

To transfer crop tobacco.

Pickers to be paid before the receipts are delivered.

XXII. AND for restraining the undue practice of mixing trash with stemmed tobacco, and preventing the packing of tobacco in unsizeable casks: *Be it enacted*, that all stemmed tobacco not laid straight, whether the same be packed loose, or in bundles, shall be accounted unlawful tobacco; and that no tobacco packed in hogheads, which exceed fifty inches in the length of the stave, or thirty two inches at the head, within the crow, making reasonable allowance for prizing, which allowance shall not exceed two inches above the

Stemmed tobacco to be laid straight.

Size of tobacco hogheads.

Penalty for delivering tobacco without an order from the proprietor.

And for issuing fictitious notes.

Inspector to give crop notes in exchange for transfer.

And at September court yearly give an account of, and sell tobacco for notes outstanding.

Also tobacco gained by allowance for cask and shrinkage.

To account with the treasurer upon oath, when and how.

gauge, in the prizing head, shall be passed or received ; but the owner of such tobacco packed in casks of greater dimensions than before expressed, shall be obliged to repack the same in sizeable casks, at his own charge, before the same shall be received or stamped by the inspectors.

XXIII. AND whereas many and great inconveniences have arisen from inspectors undertaking to deliver tobacco, the property of others, in their warehouses, without order from the proprietors of the same : *Be it enacted*, That if any inspector shall presume to deliver any tobacco in his warehouse, without order from the owner or proprietor of such tobacco, every inspector so offending, and being thereof duly convicted in the court of the county wherein he officiates, is declared incapable of serving forever after as an inspector in this state, and moreover shall be liable to the penalty of one hundred and fifty dollars for every hogshead of tobacco so as aforesaid delivered without order of the owner or proprietor thereof ; to be recovered by such owner or proprietor, thereof, if he or she shall prosecute within four months after the offence committed ; or if he or she decline the prosecution, then after that time, by any person who shall inform or sue for the same, by action of debt or information, in any court of record within this commonwealth. And if any inspector shall deliver any transfer receipts or notes of credit for tobacco, to any person or persons, unless at the time of delivering the same, he shall have actually and *bona fide* received and passed tobacco, the property of him, her, or them, in whose name or names such receipts or notes shall be made out, to the full amount of the quantity therein specified, every inspector so offending, and being duly convicted, shall be disabled from serving as an inspector, and moreover shall forfeit twenty dollars for every hundred weight of tobacco such fictitious notes shall express, to any person who will sue for the same ; recoverable by action of debt, in any court of record.

XXIV. THE owners of any transfer receipts, may, at any time before the sale of the tobacco contained in such transfer receipts, as hereinafter is directed, receive and mark hogsheads of tobacco to satisfy such receipts ; and the inspectors shall take in their former receipts, and deliver crop receipts for such hogsheads, and shall be answerable for the safe keeping thereof, in the same manner as they are for crop tobacco ; but the persons receiving such hogsheads shall pay to the inspectors one dollar and fifty-eight cents, for the inspection and nails for every hogshead, that is to say, fifty-eight cents down to the inspectors for their own use for nails and their trouble in prizing, and one dollar as inspection, when the tobacco is delivered. And the inspectors shall at the court held for their county in the month of *September* yearly, or if there be no court in that month, then at the next court held for their county, lay before the court an account upon oath, of all transfer receipts that were not by them taken in and received before the time of sale herein before mentioned : And after such account exhibited and oath made, shall sell the tobacco in such receipts contained, deducting the allowance for shrinkage and wasting, at public auction, at the door of the courthouse, between the hours of twelve and two ; and the inspectors shall pay the money arising by such sale, in satisfaction of their receipts, from time to time, to the proprietors thereof, making their demand, under the same penalty as is inflicted for not paying inspectors receipts. And all inspectors shall keep a just and true account of the tobacco gained or saved upon the allowance made for cask and for shrinkage, and for transfer tobacco, or otherwise ; and if any tobacco shall be so gained or saved, shall exhibit an account thereof, and shall also sell the tobacco so gained and saved, in the manner as is directed for the sale of transfer tobacco, and shall account for the money arising by such sale to the treasurer of this state for the time being, in their next account with him ; and the said treasurer shall account for the same to the General Assembly ; and no inspector shall convert any tobacco so gained to his own use.

XXV. ALL inspectors shall before the tenth day of *October*, in every year, account with the treasurer of this state upon oath, for all monies received, or which ought to be received by them, by virtue of this act, except the money paid for nails, and for their trouble in prizing, or for repacking damaged tobacco, which shall be relanded at their inspections, for every hogshead of transfer tobacco ; in which account they shall be allowed their salaries, the rents of the warehouses, and all other necessary disbursements in pursuance of this act. And in order to ease the inspectors giving their personal attendance at the treasury, they are hereby required, after stating their accounts with the treasurer, as

above directed, to take the following oath before some one justice of the peace of the county where they officiate, to wit:

WE A. B. and C. D. do swear, that the account now produced, contains an exact state of all the tobacco shipped the preceding year from warehouse, all taxes received, or due for the same, also all tobacco gained at the said inspection by any means whatsoever. So help us GOD.

And the justice of the peace before whom they are sworn, shall, and he is hereby required, to certify on the said account, that they have taken this oath.

XXVI. THE several inspectors of tobacco in this state, shall annually, at the time of settling their accounts with the treasurer, deliver to him an account, upon oath, of all the tobacco shipped from their respective warehouses within the year preceding, containing the number of hogsheads or casks sent on board each ship or vessel respectively; and every inspector failing therein, shall forfeit and pay the sum of one hundred and fifty dollars.

To return an account annually of tobacco shipped.

XXVII. AND any justice of the peace of any county near the place where any ship or other vessel shall ride, upon information made to him upon oath, by any free man, that there is good cause to suspect any tobacco uninspected, in cask, bulk, or parcels, to be on board such ship or other vessel, shall, and he is hereby empowered and required to issue his warrant, directed to the sheriff or any constable of his county; and the sheriff or constable shall have full power and authority, and he is hereby required to enter and go on board of such ship or other vessel, to search for, and seize such tobacco, and the same being seized, shall be brought on shore and carried before the same, or any other justice, who shall cause the said tobacco to be carried to the nearest warehouse, and there inspected, and if passed, restored to the owner, in case he shall be innocent of the fraud; but if he shall appear to have been concerned in such fraud, or if no owner shall claim within three months, the said tobacco shall be sold by the inspectors, and the money arising from such sale be paid into the public treasury, and accounted for to the General Assembly. And the commanding officer or skipper of any ship or vessel, on board which such tobacco is found, shall forfeit to the informer twenty dollars for every hundred weight, and so in proportion for a less quantity; to be recovered with costs in any court of record, if it be five dollars or more. And if any master or commanding officer, or skipper, of any ship or vessel, or any other person whatsoever, shall resist the officer in the execution of any such warrant, every such master, commanding officer or skipper, shall forfeit and pay six hundred dollars; and every sailor or other person so resisting, shall forfeit and pay eighty dollars. And if any action shall be brought against any justice of the peace, sheriff or constable, for doing any thing in the execution of this act, the defendant may plead the general issue, and give this act in evidence; and if the plaintiff shall be non-suited, or a verdict pass against him, or a judgment on demurrer, the defendant shall recover double costs.

Proceedings where uninspected tobacco is about to be exported by water.

XXVIII. WHERE any tobacco hath remained, or shall hereafter remain undemanded in a public warehouse two years after the same hath been, or shall be inspected, the inspectors shall advertise in the *Virginia* gazette for three weeks successively, a list of the marks, numbers, and weights of such tobacco, with the names of the persons for whom it was inspected; and if no owner appears to claim the same within three months, they shall at the next court to be held for the county in which such warehouse shall be, after the expiration thereof, and advertising as aforesaid, deliver to the court the like list, which court is hereby empowered and required, to order the same to be publicly sold at the courthouse door, on a court day, to the highest bidder; the clerk of such court shall transmit within three months to the auditor of public accounts, a list of such tobacco so directed by the court to be sold; and the money arising from the sale thereof, shall be paid by the inspectors to the treasurer of this state for the time being, who shall account for the same, from time to time, to the General Assembly. And if any person, having a right to any tobacco so sold, shall prove his property therein, the said treasurer shall repay to such person the money for which such tobacco was sold.

Old tobacco to be sold.

XXIX. NO person taking upon himself the office of inspector, shall during his continuance in that office, or until he hath obtained a *quietus* from the treasury, be capable of being elected a member of either house of assembly, or shall presume to intermeddle, or concern himself with an election of a member or members of either of the said houses, otherwise than by giving his vote, or shall

Inspectors incapacitated for other offices.

endeavor to influence any person or persons in giving his or their vote, under the penalty of one hundred and fifty dollars for every offence; nor shall any inspector by himself, or any person for him, be allowed to keep an ordinary, or house of entertainment, at or near the warehouse where he is an inspector; and every inspector herein offending, shall be incapable of serving in that office; neither shall any inspector during his continuance, be, or undertake to be a sheriff, justice of the peace, collector of any public tax, other than what relates to any such office, county levies, or poor rates, or any officers fees; nor shall directly or indirectly for himself, or for any other person, buy, or receive by way of barter, loan or exchange, any tobacco whatsoever, under the penalty of ten dollars, for every hundred weight of tobacco so bought or received. *Provided*, That nothing herein contained, shall be construed to hinder any inspector from receiving his rents in tobacco, which shall be first viewed, examined and stamped according to the directions of this act.

Penalty on inspectors receiving other gratuity than their salaries and other legal allowances.

And on the person offering a bribe.

Inspectors' salaries.

XXX. AND for the further and better direction of the inspectors aforesaid in their duty, *Be it enacted*, That no inspector shall take, accept, or receive, directly or indirectly, any gratuity, fee, or reward, for any thing by him to be done in pursuance of this act, other than his salary and the other payments and allowances herein before mentioned and expressed; and if any inspector shall take, accept, or receive any such gratuity, fee or reward, such inspector being thereof convicted, shall forfeit and pay the sum of three hundred dollars; to be recovered with costs, by any person or persons who shall inform and sue for the same, by action of debt or information, in any court of record within this commonwealth, and moreover shall be disabled from holding the office of inspector during the continuance of this act. And if any person shall offer any bribe, reward or gratuity, to any inspector for any thing by him to be done in pursuance of this act, other than the fees and allowances herein before directed, every person so offending, and being thereof convicted, shall for every such offence, forfeit and pay the sum of sixty dollars; to be recovered in any court of record within this state; one half of which forfeiture shall be to and for the use of such inspector refusing such bribe or reward, and the other half to the person who will inform and sue for the same. And there shall be paid to each of the inspectors appointed to attend, and attending the said several warehouses, the salaries herein after mentioned, that is to say:—At *Pitt's*, *Guildford*, and *Pungoteague*, under one inspection, one hundred and sixteen dollars and sixty-seven cents; at *Roy's*, two hundred dollars; at *Bolling's Point*, two hundred and sixty-six dollars and sixty-seven cents; at *Bollingbrook's*, two hundred and sixty-six dollars and sixty-seven cents; at *Cedar point*, two hundred and sixty-six dollars and sixty-seven cents; at *Hobb's-hole*, one hundred and sixteen dollars and sixty-seven cents; at *Bowler's*, one hundred dollars; at *Layton's*, one hundred dollars; at *Colchester*, one hundred and sixty-six dollars and sixty-seven cents; at *Alexandria*, two hundred dollars; at the falls of *Patoromac*, one hundred and thirty-three dollars and thirty-three cents; at *Poropotank*, one hundred dollars; at *Deacon's Neck*, one hundred dollars; at *Page's*, two hundred and sixty-six dollars and sixty-seven cents; at *Crutchfield's*, two hundred dollars; at *Meriwether's*, two hundred dollars; at *Rocky-Ridge*, two hundred and sixty-six dollars and sixty-seven cents; at *Osborne's*, two hundred dollars; at *John Bolling's*, two hundred and thirty-three dollars and thirty-three cents; at *Manchester warehouse*, two hundred and sixty-six dollars and sixty-seven cents; at *Trent's warehouse*, two hundred and sixty-six dollars and sixty-seven cents; at *Johnson's*, two hundred and sixty-six dollars and sixty-seven cents; at *Byrd's*, two hundred and sixty-six dollars and sixty-seven cents; at *Skockæ*, two hundred and sixty-six dollars and sixty-seven cents; at *Rockett's*, two hundred and sixty-six dollars and sixty-seven cents; at *Smithfield and Fulgham's*, under one inspection, one hundred and thirty-three dollars and thirty-three cents; at *Shepherd's*, one hundred dollars; at *Mantopike and Frazer's*, under one inspection, one hundred and fifty dollars; at *Todd's* and *Aylett's*, under one inspection, one hundred and fifty dollars; at *Boyd's-hole* and *Machodack*, under one inspection, one hundred and fifty dollars; at *Gibson's*, one hundred dollars; at *Davis's* and *Lowry's*, under one inspection, one hundred dollars; at *Deep creek* and *Glasscock's*, under one inspection, one hundred and sixteen dollars and sixty-seven cents; at *North and South Wicomico*, under one inspection, one hundred and thirty-three dollars and thirty-three cents; at *Coan's*, one hundred and sixteen dollars and sixty-seven cents; at *Indian creek* and *Dwyer's*, under one inspection, one hundred dollars; at *Urbanna*, one hundred dollars; at *Kemp's*

warehouse on *Pianketank*, fifty dollars; at *Milner's*, one hundred and thirty-three dollars and thirty-three cents; at *Suffolk*, one hundred and thirty-three dollars, and thirty-three cents; at *Cherrystone's* and *Naswaddox*, under one inspection, one hundred and sixteen dollars and sixty-seven cents; at *Littlepage's*, one hundred and sixteen dollars and sixty-seven cents; at the *Brick-house*, one hundred dollars; at *Hood's*, one hundred dollars; at *Boyd's*, two hundred and sixty-six dollars and sixty-seven cents; at *Davis's*, two hundred and sixty-six dollars and sixty-seven cents; at *Blandford*, two hundred and sixty-six dollars and sixty-seven cents; at *Quantico*, two hundred and thirty-three dollars and thirty-three cents; at *Dumfries*, two hundred and thirty-three dollars and thirty-three cents; at *M'Rae's*, two hundred dollars; at *Bullitt's*, one hundred and sixty-six dollars and sixty-seven cents; at *Cat point*, one hundred dollars; at *Totuskee*, one hundred dollars; at *Gray's creek*, one hundred and sixteen dollars and sixty-seven cents; at *Low point*, one hundred and thirty-three dollars and thirty-three cents; at *Falmouth*, two hundred dollars; at *Acquia*, one hundred and sixty-six dollars and sixty-seven cents; at *Dixon's*, two hundred dollars; at *Fredericksburg*, two hundred and thirty-three dollars and thirty-three cents; at *Royston's*, two hundred and thirty-three dollars and thirty-three cents; at *Nomony*, one hundred dollars; at *Leed's* and *Mattox*, under one inspection, one hundred and sixty-six dollars and sixty-seven cents; at *Yeocomico* and *Kinsale*, under one inspection, one hundred and thirty-three dollars and thirty-three cents; at the *College Landing*, eighty-three dollars and thirty-three cents; at *York-town*, eighty-three dollars and thirty-three cents; at *Hampton*, fifty dollars; at *Crow's* warehouse and at *Cresap's*, the inspectors shall receive for each hoghead by them inspected, the sum of sixty-seven cents, seventeen cents whereof shall be paid to the proprietor for the rent of the warehouse, and the residue for their own use; at *Romney*, fifty dollars; at *Lynch's*, two hundred and twenty dollars; at *Rivanna*, one hundred and thirty-three dollars and thirty-three cents; at *Swan creek*, one hundred and thirty-three dollars and thirty-three cents; at *Mecklenburg*, one hundred dollars; at *Barksdale's*, two hundred and sixty-six dollars and sixty-seven cents; at *West-hill*, two hundred and sixty-six dollars and sixty-seven cents; at *High-street*, two hundred and sixty dollars and sixty-seven cents; at *West-brook*, two hundred and sixty six dollars and sixty-seven cents; at *Petersburg*, two hundred and sixty-six dollars and sixty-seven cents; at *Henderson's*, one hundred and thirty-three dollars and thirty-three cents; at *Nicholas's*, one hundred and thirty-three dollars and thirty-three cents; at *Morgan-town*, fifty dollars; at *Great Falls*, one hundred and thirty-three dollars and thirty-three cents; at *Woodjon's*, one hundred and sixty-six dollars and sixty-seven cents; at *Portsmouth*, one hundred dollars; at *Thornton's*, one hundred and sixty-six dollars and sixty-seven cents; at *Amberst*, one hundred dollars; at *Booker's*, one hundred and thirty-three dollars and thirty-three cents; at *Horsley's*, one hundred dollars.

XXXI. *PROVIDED* always, That if the quantity of tobacco, which shall be received at any warehouse already established, or hereafter to be established, shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public.

XXXII. THE inspectors at the several warehouses, established above the falls of *James river*, upon the delivery of their notes, or an order where notes have not been issued, shall deliver the tobacco for transportation, with a printed manifest, descriptive of the owner's name, the name of the skipper of the bateau or canoe, if transported by water, or if waggoned, the name of the waggoner, to what warehouse or port the same is destined, and to whom to be delivered; the said manifest shall moreover express the marks, numbers, and weights of the tobacco, and each hoghead shall be stamped with the name of the warehouse at which it was inspected; which manifest shall, by the skipper or waggoner, (as the case may be) if the tobacco is intended to be sent to any warehouse heretofore established, be delivered to the inspectors thereof, who are hereby required to receive the same, and grant a receipt therefor, and enter such tobacco in a separate book to be by them provided and kept for that purpose, and on the receipt aforesaid being presented, shall deliver the said tobacco with such manifests, as by law are required for other tobacco lodged in their warehouses for exportation, when required, and may demand for all such tobacco the same warehouse rent as for other tobacco by them inspected. *Provided* always, that nothing in this act contained, shall be construed to prevent

If the warehouse does not pay the inspectors salaries, the deficiency not to be made good by the public.

Inspectors above the falls of James river to deliver printed manifests with the tobacco.

any owner of tobacco passed at the said inspections, who has previously paid the legal duties, from exporting, selling, or storing the same in any private warehouse, without being obliged to store it in any warehouse heretofore established.

Copies thereof and of certificates of payment of duties to be sent to the auditor.

Owner may have his tobacco reinspected and weighed.

The warehouses to be under the same regulations as others.

Allowance to the inspectors and for warehouse rent-

Tobacco inspected there, shall not be a tender in certain contracts.

Inspectors to deliver tobacco to be manufactured.

Method of detecting inspectors who do not do their duty.

XXXIII. THE owners of such tobacco, previous to the delivery thereof, shall procure a duplicate of the manifest, with a certificate from the inspectors, that the duties imposed by law have been paid; which certificate, with all others granted in similar cases, shall be lodged with the clerk of the court of that county where the tobacco was inspected, to be by him transmitted to the auditor of public accounts, on or before the twenty-fifth day of *October*, annually, to be by him compared with the inspectors accounts. And in case the owner of the tobacco shall suspect any fraud to have been practised or used by any skipper or waggoner in the transportation thereof from either of the said warehouses, it shall be lawful for the inspectors at any warehouse to which the same may be brought, and they are hereby required, at the request of such owner, to reinspect and weigh the same, and if found to be damaged or embezzled, the inspectors shall not enter the same in their books, but it shall remain subject to the directions of the owner, in like manner as other damaged tobacco.

XXXIV. THE appointment of inspectors, and all other regulations appertaining to the said warehouses, shall be the same as are provided for by law for other inspections, so far as the same do not contravene this act. All tobacco inspected at either of the said warehouses, shall be subject to the same duties and imposts, and be collected and accounted for by the inspectors in the same manner, and under the like penalties, as are directed and prescribed for other warehouses heretofore established. And the inspectors at each of the said warehouses, may demand and receive for each hogthead by them inspected, the sum of sixty-seven cents, seventeen cents whereof, to be by them accounted for and paid to the proprietor for the rent of the warehouse, and the residue for their own use. *Provided nevertheless*, that no person shall be obliged to receive any notes passed at any of the said warehouses, in discharge of any tobacco contracts heretofore entered into.

XXXV. THE inspectors of the several warehouses within this commonwealth, shall deliver any inspected tobacco to any person or persons who shall duly demand the same, by delivery of the notes or otherwise, for the purpose of manufacturing it, and grant him or them a manifest therefor, upon such persons paying the usual duties, and lodging with them a certificate of his or their having, before some court of record within this commonwealth, entered into a bond with sufficient security, in the penalty of fifteen hundred dollars, payable to the governor and his successors, for the use of the commonwealth, with condition that he or they will not export, or cause or suffer to be exported, either by land or water, any tobacco received by him or them for the purpose of manufacturing, until it has been manufactured.

XXXVI. AND for the better detecting inspectors who shall not do their duty, and for the more speedy and easy examination into complaints against them: *Be it enacted*, that any two justices of the peace shall have power to hear all complaints against any inspector within their county, and to take the depositions of witnesses upon the matter of such complaint on both sides, which shall be transmitted by them to the governor and council, for their determination. And to the end such depositions may be taken in the best manner, the clerk of the county, or some sufficient person by him to be appointed, shall attend the said justices for that purpose, and be paid by the county the same fees as are or shall be by law established for attending the examination of witnesses upon a *dedimus potestatem*. And moreover any two justices shall have power to visit all or any of the public warehouses within their county, and if they shall discover any negligence in the inspectors, either in securing the tobacco, or throwing the same away in a proper manner for saving the room in such houses, or that they are guilty of any other breach or breaches of their duty, the justices shall certify the governor and council thereof. And if any inspector shall be adjudged guilty of a breach of his duty, he shall be removed from his office, and be forever after incapable of serving as an inspector. And if any inspector shall be removed from his office, upon a complaint and prosecution against him in the method by this act prescribed, he shall be liable to the action on the case of the prosecutor for his necessary costs and expenses in such prosecution, in which the prosecutor shall recover his full costs of suit; but if the inspector or inspectors shall be acquitted upon such examination, the prosecutor shall be liable to the

action of such inspector or inspectors, for the recovery of all damages and expenses which he or they shall have sustained or been put to by such prosecution and costs, unless the governor and council shall certify that there was reasonable cause for such complaint; and every inspector shall moreover be liable to the action of the party grieved for all loss and damage that may happen or arise to any person, by occasion of any failure of duty, or neglect of any such inspector; in which action the plaintiff shall recover his full costs, although the damage do not exceed seven dollars.

XXXVII. IF any of the warehouses herein before mentioned, shall happen to be burnt, the loss sustained thereby shall be made good, and repaid to the several persons injured, by the General Assembly, and in case of such accident, no inspector shall be sued or molested for, or by reason of any receipts by them given, or for any tobacco burnt in any of the said warehouses, but shall be altogether acquitted and discharged of, and from the payment of the tobacco mentioned in such receipts; any thing herein before contained to the contrary, notwithstanding. *Provided always*, that if the receipts for tobacco so burnt or destroyed, shall be of an older date than twelve months, the tobacco shall not be paid for by the public, but the owner or proprietor thereof shall bear the loss.

When warehouses are burnt the public to pay for the tobacco and inspectors indemnified.

Exception.

XXXVIII. THE inspectors shall not permit the proprietor or any other person to make use of the warehouse at which they are inspectors; and if any warehouse shall hereafter happen to be burnt, and it shall appear that such warehouse was burnt by means of the inspectors permitting the proprietor or any other person to make use thereof, or by the negligence or voluntary act or permission of such inspectors, then the estates of such inspectors shall be subjected to pay to the treasurer for the time being, all such sum or sums of money as shall have been paid to the person or persons so injured, to be recovered by such treasurer, by action of debt in any court of record within this commonwealth.

Warehouses not to be used for private purposes.

XXXIX. IF any person hereafter shall make any fire within any public warehouse, or without doors, within one hundred yards of such warehouse, other than in the inspectors counting-room, squares, or funnels, such person, if a freeman, shall, for every such offence, forfeit and pay thirty dollars; to be recovered with costs by action of debt or information in any court of record within this state, by the informer, to his own use; and if a servant or slave, he or she shall, by order of any justice of the peace, receive on his or her bare back twenty lashes for every such offence. And it shall not be lawful for any person whatsoever to erect or build, or cause to be erected or built, any wooden chimney or chimnies within two hundred yards of any public warehouse; and where any such are already built within the distance aforesaid, of any public warehouse, the owner or proprietor thereof shall pull down the same, or on refusal or neglect so to do within one month after the passing of this act, it shall be lawful for the sheriff of the county, and he is hereby required, to cause such chimney or chimnies to be pulled down and demolished.

No fire to be kindled in or near a warehouse.

Nor wooden chimnies built near them.

XL. IF any inspector or inspectors shall give, deliver, or issue to any person whatsoever, his or their receipt expressed to be for any hoghead or cask of tobacco, or for any quantity of transfer tobacco, which they have not actually received into the warehouse whereof they are inspectors, at the time of giving such receipt, or shall give, deliver, issue, or cause or procure to be given, delivered, or issued, more than one receipt for any hoghead or cask of tobacco, or quantity of transfer tobacco by him or them received, except where authorized by law so to do, such inspector or inspectors, being thereof convicted by due course of law, shall be adjudged a felon, and shall suffer death as in case of felony, without benefit of clergy.

Death, to issue double notes for the same tobacco, or notes for tobacco not received.

XLI. IF any inspector's receipt be casually lost, mislaid, or destroyed, the person or persons entitled to receive the tobacco by virtue of any such receipt, shall make oath before any justice of the peace of the county where the same is payable, to the number and date of every such receipt, to whom and where payable, and for what quantity of tobacco the same was given, and that such receipt is lost, mislaid, or destroyed, and that he, she or they, at the time such receipt was lost, mislaid, or destroyed, was lawfully entitled to receive the tobacco therein mentioned, and shall take a certificate thereof from such justice, and shall advertise the loss of such receipt, at the courthouse of the county in which such inspection may be, on the court day, and at the inspection where the tobacco was brought, for four weeks successively; and shall moreover give

Method to be taken where receipts are lost.

bond with sufficient security to the inspectors in double the amount of the tobacco so claimed, to indemnify the person who may thereafter produce the original receipt within twelve months after notice given of the loss of such receipt, the value by him paid for the same, when a duplicate of the said receipt shall be granted by the inspectors to the person or persons entitled to receive the tobacco by virtue of such original receipt, and not otherwise. The bond so taken shall be assignable by the inspectors taking the same to the person producing the original receipt, who may maintain an action of debt thereupon, and such assignment shall exonerate the inspectors from any claim or demand against them by virtue of the original receipt: *Provided nevertheless*, That if the principal and security should at the time of taking such bond be insufficient, that in that case the inspectors shall be responsible for the value of the tobacco to the person producing such original receipt. And if any person shall be convicted of making a false oath, or producing a forged certificate in the case aforesaid, such person shall suffer as in case of wilful and corrupt perjury.

New inspectors to give their predecessors a receipt for the tobacco in the warehouses.

Inspectors discharged on the delivery of tobacco.

Prizes to be used in turn for prizing tobacco picked or light hogsheds.

Penalty for taking and using draughts.

Inspectors to prize light crop tobacco on request.

To give notes in the name of the owner.

To give receipts for tobacco when brought

XLII. WHEN any new inspectors shall be appointed at any of the said warehouses, such inspectors shall, and they are hereby required, to give to the person or persons whom they shall succeed, a receipt with his or their hands subscribed, containing the numbers, marks, gross, tare, and nett weight, of all and every hogsheds or casks of tobacco which shall be then remaining at the warehouse or warehouses, at which they are appointed inspectors, with the delivery and payment of which said hogsheds or casks of tobacco so remaining, he or they shall from thenceforth be chargeable and liable; but he or they shall in no wise be accountable or answerable for the loss of weight, or for quality of tobacco contained in any hogshed or cask, for which receipt was by him or them so as aforesaid given. And if any hogshed or cask of tobacco shall hereafter be received by any person or persons whatsoever, and delivered out of any of the said warehouses for exportation by the inspector or inspectors attending the same, such inspector or inspectors from the time of such delivery, shall be forever discharged and acquitted from all actions, costs, and charges, for, or by reason of the tobacco contained in any such hogshed or cask being unsound and unmerchantable, or of less quantity than the receipts given for the same shall specify; any thing herein before contained to the contrary, notwithstanding.

XLIII. AND when any prized tobacco shall be brought to any public warehouse, in order to be shipped on freight or otherwise, and the inspectors there attending shall refuse to pass such tobacco, such as shall be bad and unmerchantable, shall be picked and separated from the rest; or where any light crop tobacco shall hereafter be brought to any of the said warehouses, in either case, the said inspectors, if required, shall permit the owner or other person bringing such tobacco, to make use of one or more of their prizes, for the repacking, prizing, or making heavier such tobacco, without fee or reward; and if there shall be several hogsheds of tobacco belonging to several owners, to be picked, repacked, or prized at any public warehouse, the owner or other person bringing the same, whole tobacco shall be first viewed and refused, or found light, shall be first permitted and allowed to make use of such prize or prizes for the purposes aforesaid; and no inspector shall take or convert to his own use, or otherwise dispose of, any draughts or samples of transfer or crop tobacco, but the same, if fit to pass, shall be put into the hogshed or bulk out of which it was drawn, under the penalty of forfeiting four dollars for every draught so taken away, and not returned as aforesaid, contrary to the directions of this act; to be recovered by the informer, one moiety to his own use, and the other moiety to the use of the proprietor of such tobacco, before any justice of the peace of the county wherein such offence shall be committed. And all inspectors, if required, shall alter the mark and number of any hogshed of reprized tobacco for which they have before given a receipt; and for preventing confusion and mistakes, shall keep a waste book, in which shall be entered the marks and numbers of all hogsheds of tobacco received by them, and another book in which shall be entered the marks, numbers, and weights thereof, when the same shall be delivered out by them; and all inspectors, when required, shall be obliged to prize any light hogshed of tobacco under one thousand pounds, so as to make it up the weight one thousand pounds nett, but shall receive the same fee upon such hogshed, as for transfer tobacco. And when any tobacco shall be brought to the warehouse by the overseer of the owner thereof, the inspectors shall give receipts in the name of the owner, and not of the overseer.

XLIV. THE inspectors of tobacco at the several warehouses within this State, shall immediately on the delivery of every hogshed of tobacco at the

warehouse whereof they are inspectors, give a receipt for such tobacco, if required by the proprietor or person bringing the same to the said warehouses, expressing therein that the same is for uninspected tobacco; every inspector refusing so to do, shall forfeit and pay to the owner of such tobacco, the sum of four dollars.

XLV. EVERY master, mate, or boatswain of any ship or other vessel, which shall arrive in this state in order to load tobacco, shall, before the said ship or other vessel be permitted to take on board any tobacco whatsoever, make oath before the collector of the port wherein such ship or other vessel shall arrive (which oath the said collector is hereby empowered and required to administer) that they will not permit any tobacco whatsoever to be taken on board their respective ships or vessels, except the same be packed in hogsheads or casks, stamped by some inspector legally thereunto appointed; which oath they shall subscribe in a book to be kept by the said collector for that purpose; and if any master shall cause any person who is not really and *bona fide* mate or boatswain, to come on shore and take such oath, he shall, for the said offence, forfeit and pay fifteen hundred dollars.

The oaths of masters of vessels intending to load with tobacco.

XLVI. IF any person not being a servant or slave, taking upon himself to carry any tobacco to or from any of the said warehouses in his boat or other vessel for hire, shall take on board, or permit, or suffer to be taken on board, any tobacco whatsoever, in bulk or parcels, such tobacco shall not only be forfeited, and may be seized by any person or persons whatsoever, but the master or skipper offending herein, shall forfeit and pay fifty cents for every pound weight of such tobacco; and the master or commander of any ship or vessel, wherein any tobacco in bulk or parcels shall be found, shall over and above the forfeiture thereof, be subject and liable to the same penalty; to be recovered, if it doth not exceed twenty dollars, before any two justices of the peace of any county near the place where such ship, boat or other vessel, shall lie; and if it exceeds twenty dollars, in any court of record, by action of debt, wherein the plaintiff shall recover his costs. And if any servant, or other person employed in navigating any such boat, or other vessel, shall connive at or conceal the taking or receiving on board any tobacco in bulk or parcel, as aforesaid, he shall pay the sum of twenty dollars, to be recovered as aforesaid; and if such servant or other person, shall be unable to pay the said sum, he or they shall, by order of such justice, receive on his bare back, thirty-nine lashes, well laid on; and if such boat or other vessel be under the care and management of a servant who cannot pay and satisfy the penalty so to be inflicted on the master or skipper offending as aforesaid, then such servant, and every other person employed under him, unable to pay the said penalty, who shall be guilty of conniving at or concealing the taking on board tobacco in bulk or parcels, as aforesaid, shall, upon every complaint, and proof thereof made to a justice of the peace, have and receive, by order of the said justice, thirty-nine lashes well laid on; and if any servant shall again be entrusted with the care and management of any boat or other vessel, and shall be convicted a second time of taking or receiving on board the same, any tobacco in bulk or parcel, contrary to the directions of this act, the owner of such servant shall forfeit and pay the like sum of fifty cents *per* pound for every pound weight of such tobacco so taken or received on board in bulk or parcel, and shall also forfeit and pay two dollars for every day such servant shall thereafter be employed as skipper or master of any boat or vessel to him belonging; to be recovered and applied as aforesaid. *Provided nevertheless*, That it shall be lawful for the proprietor or proprietors to break any hogshead of tobacco after it shall be passed and stamped, and to repack and prize the same into small casks for the convenience of stowing, provided it be done at the warehouse where the same was inspected and weighed, marked and stamped; and the inspectors shall particularize all such casks in their manifests to be given to the masters or skippers of the vessel in which such tobacco be laden. *Provided always*, that nothing herein before contained, shall be construed to prohibit any person from carrying, or causing to be carried to the said warehouses, in any boat or other vessel, any tobacco in bulk or parcels, for the payment of his or her levies, debts or other duties, or to prohibit any person to put or take on board any boat or other vessel, any hogsheads or casks of tobacco, to be water-borne to any warehouse appointed by this act, so as the same be not carried out of the collectors or other officers of the customs district wherein the said tobacco shall be made, nor to prohibit the owner of any tobacco to transport his crops, or

No tobacco to be taken on board any vessel in bulk or parcels. Penalties.

Proviso's for sundry purposes.

any part thereof, in hogsheds or casks, from one plantation to another, for the better handling and managing thereof, nor any purchaser of tobacco from bringing the same by water, to be repacked, sorted, stemmed, or prized, before the same be carried to the said warehouses, so as such last mentioned tobacco be packed in hogsheds or casks; but no tobacco on any pretence whatsoever, shall be carried or transported by water, to be inspected out of the district limited and appointed for the several collectors or other officers of the customs of this state, wherein the same shall be made, or being so carried, shall not be inspected or passed by any inspectors, knowing the same to be made out of such district, upon pain of forfeiting by the owner of such tobacco, and the inspectors who shall pass the same, ten dollars for every hoghead, to the informer. *Provided nevertheless*, That it shall and may be lawful for the inhabitants of *Fleet's Bay*, on the south side of *Indian creek*, in the county of *Lancaster*, to carry their tobacco by water to the public warehouse at *Indian creek*, and the inhabitants at *Warrajsqueake Bay*, and the parts adjacent, to carry their tobacco to be passed at any warehouse in the upper district of *James river*.

Relanded tobacco must be delivered at some public warehouse.

Penalty for landing it elsewhere, or for opening hogsheds and taking out tobacco.

Exception as to tobacco landed in distress of weather.

Provision as to damaged tobacco.

Inspectors to keep books, &c.

And deliver manifests with each load of tobacco.

XLVII. IF the skipper of any boat or vessel, or the person or persons to whom the care and management thereof shall be entrusted, shall land or put on shore any hoghead, cask, or package of tobacco, put on board the same, to be carried to any public warehouse at any other place or places, than the warehouses by this act appointed for the reception and inspection of tobacco, or at some or one of them, or the wharves or other landing to such warehouse or warehouses belonging; or shall put the same on board any other vessel, or suffer the same to be done, so as the same be not delivered at some of the said public warehouses, without fraud or embezzlement; or shall open any hoghead or cask of tobacco so as aforesaid water-borne and landed, and take thereout any tobacco before the same be received by the inspectors according to the directions of this act; or after the same has been viewed, shall fraudulently open any hoghead or cask, and take thereout any tobacco, every such offence shall be judged felony, and the offender or offenders shall suffer as in the case of felony. *Provided always*, that nothing herein before contained, shall be construed to prohibit the landing, or putting on shore, any hoghead, cask, or package of tobacco, out of any boat or other vessel, which by distress of weather shall be forced aground, or become leaky, so as such landing be really and *bona fide* for the preservation of the tobacco laden in such vessel, and that the same may with all convenient speed be thereafter carried to the warehouse or ship (as the case may be) to which it was designed, without embezzlement. *Provided also*, that if by any of the accidents aforesaid, or negligence of the master or skipper of any vessel, any tobacco which hath been viewed and stamped, shall in its carriage to the ship in which it is intended to be exported, receive so much damage as that the master of such ship or vessel will not receive it on board, every hoghead or cask of tobacco so damaged, shall with convenient speed be carried to some warehouse appointed by this act, and there lodged, until the owner of the said tobacco, or master of the vessel in which it was damaged, shall have separated the same, and repacked the good tobacco; and then the same shall be weighed, and stamped with the weight by the inspector attending such warehouse, without fee or reward; but if the owner of such tobacco, or the master of the vessel in which it was damaged, shall fail or delay to separate and repack the same within ten days, then the inspectors at the warehouse where such damaged tobacco shall be landed, shall, and they are hereby required to separate, repack, weigh and stamp the same; and such inspectors shall receive of the owner two dollars for their trouble and nails.

XLVIII. AND to the intent that the just quantity of tobacco exported may be more exactly known, and evil practices to defraud the public of the duty prevented; *Be it enacted*, that all inspectors shall carefully enter in a book, to be provided and kept for that purpose, the marks, numbers, gross, nett weight, and tare of all tobacco viewed and stamped by them as aforesaid, and in what ship or vessel the same shall be laden or put on board; and shall also, with every sloop or boat load of tobacco, send a list of the marks, numbers, gross, nett weight, and tare of every hoghead or cask of tobacco then delivered, to be given to the master of the ship or vessel in which the same shall be put on board; and if the tobacco delivered to the same sloop or boat is intended to be put on board several ships or vessels, then they shall deliver so many distinct and several lists as aforesaid, of the hogsheds or casks, to be put on board such ship or vessel respectively. But whereas it may happen that the ship in which

such tobacco was intended to be put, may be so full as not to be able to stow all the tobacco contained in such list, in such case it shall be lawful to ship the said tobacco, or any part thereof, on board any other ship or ships where the owner thereof shall think fit; the masters of such ships endorsing on the said lists the marks and numbers of the respective hogheads by them taken on board, and giving notice to the inspectors of the warehouse from which the same was brought; or if there be no ship to receive the said tobacco, then it shall be lawful for the master of the first mentioned ship or vessel, to put the said tobacco into any warehouse in the district where such ship or vessel shall ride, giving immediate notice thereof to the inspectors who stamped the same. And the inspectors of that warehouse where such tobacco shall be delivered, shall receive from the persons re-landing such tobacco, twenty-five cents for every hoghead so re-landed, and shall give a receipt for the same, which money so received by the inspectors, shall be paid by them to the person or persons entitled to receive the rent of the said warehouse.

Tobacco may be re-landed or put on board other ships.

XLIX. EVERY master of a ship or vessel wherein tobacco shall be laden, shall at the time of clearing, deliver to the collector or other officer of the customs, a fair manifest of all the tobacco on board his ship or vessel, expressing the marks and numbers of every hoghead or cask, and the tare and nett weight stamped thereon, the person by whom shipped, and from what warehouse, and shall make oath thereto, and that the same is a just and true account of the marks, numbers, tare and nett weight of each respective hoghead or cask, as the same was taken down by the person or persons appointed by him to take the same before the said tobacco was stowed away; and no ship or vessel shall be cleared by the collector, or other officer of the customs, before he shall have received such list and manifest, which shall, by the said collector, or other officer of the customs, be returned, upon oath, on or before the twenty fifth day of *October*, annually, to the treasurer of this commonwealth for the time being; and every collector failing herein, shall forfeit and pay the sum of three hundred dollars for every such failure.

Masters of vessels to give in upon oath manifests of their tobacco when clearing out.

I. ALL the penalties and forfeitures in this act contained, and not herein before particularly appropriated, shall be, one moiety to the commonwealth, to be applied towards defraying the charges of the execution of this act, and the other half to the person who shall inform and sue for the same; and shall be recovered with costs, by action of debt, or information, in any court of record within this commonwealth, where the penalty exceeds five dollars, or two hundred pounds of tobacco, and where the same does not exceed those sums, before any justice of the peace of the county where the offence shall be committed.

Penalties how to be recovered.

LI. IN case any warehouses heretofore or hereafter established shall not for the space of three succeeding years receive a sufficient quantity of tobacco to pay the inspectors' salaries and rents of the warehouses, the inspection of tobacco at such warehouses respectively, shall be thenceforth discontinued; unless the same shall be supported at private expence. *Provided*, that this clause shall not extend to the discontinuance at one time of two or more warehouses, which may be in the same county, or county next adjacent; but in such cases that warehouse shall be discontinued to which the smallest quantity of tobacco may be brought.

When warehouses shall be discontinued.

LII. THE public printer shall furnish one copy of this act to the inspectors of each of the warehouses herein mentioned.

Public printer to furnish inspectors with copies of this act.

LIII. THE acting inspectors of tobacco at the several warehouses shall be, and they are hereby exempted from militia duty, except in case of actual invasion or insurrection.

Inspectors exempted from militia duty.

LIV. ALL acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed: *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

Former acts repealed: *Proviso*.

LV. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXXXVI.

An Act declaring what shall be Treason; for punishing certain offences injurious to the Tranquility of the Commonwealth; and concerning Felonies and Offences committed out of the Jurisdiction of the same.†

[Passed the 26th of December, 1792.]

Preamble.

What shall be deemed treason.

Proof.

Punishment.

Other cases which shall be deemed treason.

Attempt to establish a separate government within the limits of this state to be deemed a high crime and misdemeanor;

Punishment.

Citizens of this commonwealth committing certain crimes in foreign nations and fleeing to this state may be apprehended and surrendered to such nation.

Citizens of this commonwealth committing certain crimes in any country in amity with the United States may be tried and punished as if the crime had been committed within this commonwealth.

I. **W**HEREAS divers opinions may be what case shall be adjudged treason, and what not: *Be it enacted by the General Assembly*, That if a man do levy war against this commonwealth in the same, or be adherent to the enemies of the commonwealth within the same, giving to them aid and comfort in the commonwealth or elsewhere, and thereof be legally convicted of open deed by the evidence of two sufficient and lawful witnesses, or their own voluntary confession, the cases above rehearsed, shall be judged treason, which extendeth to the commonwealth; and the person so convicted, shall suffer death without benefit of clergy. *a*

II. **ALSO** every person or persons who shall erect or establish, or cause or procure to be erected or established, any government separate from, or independent of the government of *Virginia*, within the limits thereof, unless by act of the legislature of this commonwealth for that purpose first obtained; or who shall in any such usurped government hold or execute any office, legislative, executive, judiciary, or ministerial, by whatever name such office may be distinguished or called; or who shall swear or otherwise solemnly profess allegiance or fidelity to the same; or who shall under pretext of authority derived from, or protection afforded by such usurped government, resist or oppose the due execution of the laws of this commonwealth, shall be adjudged guilty of high treason, and shall be proceeded against and punished in the same manner as other traitors may be proceeded against and punished by the laws now in force. *b*

III. **EVERY** person who shall attempt to establish such government by any other means than with the assent of the legislature of this commonwealth, and in pursuance of such attempts, shall join with any other person or persons, in any overt act for promoting such attempts, or who shall by writing or advised speaking, endeavour to instigate the people of this commonwealth to erect or establish such government without such assent as aforesaid, shall be adjudged guilty of a high crime and misdemeanor, and on conviction, shall be subject to such pains and penalties, not extending to life or member, as the court before whom the conviction shall be, shall adjudge. *b*

IV. **IF** any citizen or inhabitant of this commonwealth, shall go beyond the limits of the United States, within the acknowledged jurisdiction of any civilized nation, in amity with the United States, and shall within the same commit any crime, for which, in the judgment of the United States in Congress assembled, the law of nations or any treaty between the United States and a foreign nation, require him to be surrendered to the offended nation, and shall thereafter flee within the limits of this commonwealth, and the sovereign of the offended nation shall exhibit to the United States in Congress assembled, due and satisfactory evidence of the crime, with a demand of the offender to be tried and punished where the same was committed, and the United States in Congress assembled, shall thereupon notify such demand to the executive of this state, and call for the surrender of such offender, the governor with the advice of the council of state, is hereby authorized to cause him to be apprehended, conveyed and delivered to such person or persons, as the United States in Congress assembled, shall prescribe. *c*

V. **IF** any citizen of this commonwealth shall go out of the same into the territory of any christian nation or *Indian* tribe, in amity with the United States, and shall there commit murder, house burning, robbery, theft, trespass, or other crime, which if committed within this commonwealth, would be punishable by the laws thereof, it shall and may be lawful for any justice of the peace on proof of such offence by the oath of one or more credible witness or witnesses, to issue his warrant, directed to all sheriffs, under sheriffs and constables within this commonwealth, commanding them and each of them within their respective counties and precincts, to apprehend such offender or offenders, and him, her, or them to bring before such justice, or any other justice of the peace in the same county, or in the county where the offender may be apprehended.

† Amended ch. 168. (a) O.E. '76, ch. 3, sec. 1. (b) 1785, ch. 10, sec. 2, 3. (c) O.E. '84, ch. 63, sec. 2.

hended; and such offender or offenders shall be subject to the same punishment, and shall be dealt with in the same manner as if the offence with which he, she, or they stand charged, had been committed within the body of some county of this commonwealth; and such offenders may be tried by a jury of by-standers, qualified by law to serve on juries in capital cases: *Provided also*, That it shall and may be lawful for the magistrate committing such offender (if the circumstances of the case shall render it absolutely necessary) to appoint the time for holding a court for the examination of such offenders at a more distant period than the law allows with regard to other criminals, provided the same be held within thirty days after the commitment of the prisoner. *a*

Proviso as to the time of holding the examining court.

VI. WHERE sufficient proof shall not appear to the court before whom such offender shall be examined, to convict him or her of the charge, it shall and may be lawful for such court (if the circumstances of the case shall, in the opinion of the court require it) to bind such offender to his or her good behaviour, in such sum and for such time as the said court shall judge reasonable. *a*

Where the proof is not sufficient to convict the offender, he may be bound to his good behaviour.

VII. ALL high treasons, misprisions, and concealments of high treasons and other offences against this commonwealth, (except piracies and felonies on the high seas) committed by any citizen of this commonwealth, in any place out of the jurisdiction of the courts of common law in this commonwealth, and all felonies committed by citizen against citizen in any such place other than the high seas, shall be enquired into, heard, determined, and judged in the general court, in the same manner as offences committed within the body of a county are triable in a district court; and such as shall be convicted of any such offence, shall suffer such pains, penalties, judgment, and execution, as if they had been attainted and convicted of such offence done within the body of a county. *b*

Certain offences committed by citizens against the commonwealth or its citizens out of the jurisdiction thereof may be enquired into and tried in general court.

VIII. ALL and every statute and statutes, act and acts, clause or clauses thereof, within the purview of this act, (except as hereinafter provided) shall be, and are hereby repealed: *Provided always*, that nothing in this act contained shall be construed to repeal the said statutes or acts, for so much thereof as relates to any offence within the purview thereof, committed or done before the commencement of this act.

Repealing clause.

Proviso.

IX. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXXXVII.

An Act for preventing Trespasses; declaring what shall be deemed a lawful Inclosure; for preventing Infection of Horned Cattle; and Losses from Drivers thereof passing through the Commonwealth.

[Passed the 26th of December, 1792.]

I. **B**E it enacted by the General Assembly, That if any horses, mares, cattle, hogs, sheep, or goats, shall break into any grounds being inclosed with a strong and sound fence, five feet high, and so close that the beasts breaking into the same, could not creep through, or with an hedge two feet high, upon a ditch three feet deep, and three feet broad, or instead of such hedge, a rail fence of two feet and an half high, the hedge or fence being so close that none of the creatures aforesaid can creep through, which shall be accounted a lawful fence, the owner of such horses, mares, cattle, hogs, sheep, or goats, or any one of them, shall for the first trespass so committed, make reparation to the party injured, for the true value of the damage he shall sustain, and for every trespass afterwards, double damages; to be recovered with costs, in any court of record: *Provided*, That for a third offence, for any one of the beasts aforesaid breaking into such inclosure, it shall be at the election of the party injured, to sue for his damages, or to kill and destroy the beasts so trespassing, without being answerable for the same. *c*

What shall be a lawful fence.

Penalty on the owners of beasts breaking such inclosures.

Where the party injured, may sue for damages or destroy the beasts.

II. AND that the condition of the fence at the time the trespass committed may be proved to a Jury upon trial, *Be it enacted*, That upon complaint made by the party injured, before any justice of the peace of that county wherein such trespass shall be, such justice is hereby empowered and required to issue his order without delay, to three honest house-keepers of the neighbourhood, no ways related to the party injured, nor interested concerning the trespass, reciting the

How the fence shall be viewed.

(a) *Ord. 1784, ch. 53, sec. 3, 4* (b) *1786, ch. 46.* (c) *1748, ch. 15, sec. 1.*

Penalty for hurting
beasts in grounds not
sufficiently fenced.

Reward for taking up
beasts known to have
barked fruit trees.

Penalty for taking boats
or other vessels.

Bills of health to be
produced by persons
driving cattle into or
through the common-
wealth.

How they are to be
obtained.

Proceedings where the
cattle are found to be
distempered.

Owners of distemper-
ed cattle to confine
them, and bury them
when dead.

Drivers of cattle to
produce manifests of
their droves and make

complaint, and requiring them to view the fence where the trespass is complained of, and to take memorandums of the same, and their testimony in such case, shall be good evidence to the jury touching the lawfulness of the fence. *a*

III. IF any person damnified for want of such sufficient fence, shall hurt, wound, lame, kill, or destroy, or cause to be hurt, wounded, lamed, killed, or destroyed, by shooting, hunting with dogs, or otherwise, any of the kind or breed of horses, cattle, sheep, hogs, or goats, he, she, or they so offending, shall pay and satisfy to the owner of the creature so hurt, wounded, lamed, killed, or destroyed, double damages, with costs; recoverable as aforesaid. *a*

IV. ALL owners of horses, mares, cattle, and other beasts, which they know to have barked fruit trees, shall keep the same within their own fenced ground; and if any person shall take up any horse, mare, kine, or other beast, known by the owner to have barked fruit trees, and shall deliver the same to such owner, he or she shall pay the taker up, two dollars for every such beast so taken up and delivered; recoverable with costs, before any justice of the peace of the county wherein such beast was taken up, or the owner lives: *Provided always*, That the taker up, shall, if required, make oath before the same justice, that he took up such horse, mare, or other beast, and that no means were used by himself or any other person to his knowledge, to set the same at large, otherwise he shall lose the said reward. *a*

V. EVERY person who without leave of the owner shall take away any boat or other vessel, shall, for every such offence, pay ten dollars to the owner thereof, over and above the damage such boat or other vessel shall sustain, and over and above the charge of bringing back such boat or other vessel; to be recovered with costs, in any court of record, as aforesaid. And if the person so trespassing shall be a servant, he or she shall make the like satisfaction, by his or her service, when the time due to his or her master, or owner, shall be expired. And where there shall be several offenders in one trespass, every person shall be liable for the whole penalty. *a*

VI. *AND be it further enacted*, That the driving of cattle into, or through the commonwealth, or any part thereof, if it be not to remove them from one plantation to another of the same owner, or to be used at his house, shall be deemed a nuisance, unless the driver shall produce to any freeholder of a county wherein the drove is passing, who shall require it, a bill of health, signed by some justice of the commonwealth, containing the number of the drove, with descriptions of the cattle, by their sexes, flesh marks, and ear marks or brands, and certifying them to be free from distemper; or notwithstanding he may produce such bill of health, unless he shall forthwith obtain another, at the like requisition, if any freeholder shall make affidavit before a justice, that he hath cause to suspect some of the cattle to be distempered. Such bill of health shall not be given in either case, before two disinterested freeholders appointed by warrant of a justice, shall have viewed the cattle, and reported them to be free from distemper. A freeholder refusing to obey such warrant, shall be amerced by the justice granting such warrant, in any sum not exceeding five dollars. If the cattle appear by the report to be distempered, the owner may impound them, and if he refuse to do so, or if he suffer them to escape from the pound, before a justice shall have certified that they may be removed without annoying others, the same justice, or some other to whom information shall be given of the fact, shall by his order, cause them to be slaughtered, and the carcases with the hides on, but so cut or mangled, that none may be tempted to take them up and flay them, to be buried four feet deep. Those who shall be employed in executing such orders, shall receive eighty-three cents for every head so buried, to be paid by the county wherein it shall happen. And every person appointed by the order, who shall refuse or neglect to execute it, shall be amerced in the sum of eighty-three cents for every head so directed to be buried. Every person shall so restrain his distempered cattle, or such as are under his care, as that they may not go at large off the land to which they belong, and when they die, shall bury them with their hides, in manner aforesaid; and knowingly offending in either of those instances, shall be amerced in the sum of four dollars for every head they shall neglect so to bury. *b*

VII. *And be it further enacted*, That from and after the passing of this act, every driver of nett cattle, shall, immediately after their coming into this commonwealth, go before the next justice of the county, and produce to him a true

and perfect manifest, certified under the hand of a magistrate in the state from whence they last came, wherein shall be distinguished the sexes, ages, marks and colours of all and every such cattle, and also, at the same time, produce bills of sale for them, and particularize the place of abode and name of the feller, and make oath that he knows of no more cattle in his drove, than what are mentioned in the manifest and bill of sale, which oath the justice shall administer, and certify on the manifest, and shall enter in a book, by him to be kept for that purpose, a copy of the said manifest and certificate; and if any nett cattle shall be bought in this commonwealth in order to be driven into any neighbouring state, the driver shall produce his bill of sale to the next justice of the county where they shall be bought, and shall make oath that the said bill is true, and that he knows of no more cattle in his droye, than what are mentioned in the said bill and manifest, in case there be any, which the justice shall enter and certify in manner aforesaid, and also shall add a description of the cattle so bought, to the manifest if any; and the like method shall be used by the drivers and justices in all the other counties of this commonwealth, through which they pass, upon their arrival therein. And if any driver shall fail herein, he, she, or they, shall forfeit and lose his, her, or their whole drove of cattle: And any justice of the peace, upon complaint to him thereof made, is hereby empowered to issue his warrant to the sheriff, or any constable of his county, forthwith to raise sufficient force, and to seize the cattle, and cause the driver or drivers to come before him, or any other justice of the county, who is hereby empowered to hear the matter, and give a final judgment therein, and to order the cattle, if he shall judge them forfeited, to be sold by the sheriff in the same manner as goods taken in execution; and the sheriff shall be allowed the same fee for the service, and shall also be allowed for keeping and providing for the said cattle, until they are sold, after the rate of three cents *per* head for every twenty-four hours, out of the money arising from the sale. But in case any person other than the driver or drivers is convicted, or their employers, shall appear before the justice before whom the judgment was obtained, before the cattle are sold, and shall make his, her, or their property in any of them appear, the sheriff shall, by order of such justice, restore the same to such owner or owners, upon payment of the charge of their keeping; or if any owner or owners shall within three months after the sale, make their property appear as aforesaid, the sheriff shall pay him, her, or them, by order of the justice, for their cattle, according to the sale, after deducting a proportionable part of the charges: And at the expiration of the said three months, the money arising from the sale shall be appropriated, one moiety to the overseers of the poor of the district where the driver shall be convicted, for the use of the district, and the other moiety to him, her, or them, who did inform or prosecute, and shall be paid them by the sheriff accordingly; and the sheriff shall return an account of the sales to the clerk's office, to be lodged among the records of the county. *a*

Proceedings against them for failure of the duties hereby enjoined.

VIII. *PROVIDED* always, That nothing herein contained, shall be construed to extend to any of the inhabitants of this commonwealth who shall buy any nett cattle, and be driving them home, or to any persons coming with their families and stocks to settle in this commonwealth. *a*

Proviso as to driving cattle in certain cases.

IX. ALL and every act or acts, coming within the purview of this act, shall be, and the same are hereby repealed. *Provided* always, That nothing in this Act shall be construed to affect any rights, remedies, fines, forfeitures, or penalties, which have accrued, been vested, or incurred, prior to the commencement of this act.

Repealing clause. Proviso.

X. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXXXVIII.

An Act for the effectual Suppression of Vice, and punishing the Disturbers of Religious Worship and Sabbath Breakers.

[Passed the 26th of December, 1792.]

I. **B**E it enacted by the General Assembly, That if any person or persons shall profanely swear or curse, or shall be drunk, he, she, or they so offending, for every such offence, being thereof convicted by the oath of one or more witnesses (which oath any justice of the peace is hereby empowered and

Punishment for profane swearing, cursing and drunkenness.

required to administer) or by confession before one or more justice or justices of the peace in the county or corporation, where such offence shall be committed, shall forfeit and pay the sum of eighty-three cents for every such offence; or if the offence or offences be committed in the presence and hearing of one or more justice or justices of the peace, or in any court of record in this commonwealth, the same shall be a sufficient conviction without any other evidence, and the said offender shall upon such conviction forfeit and pay the sum of eighty-three cents for every such offence; and if any person or persons shall refuse to make present payment, or give sufficient security for the payment of the same in a reasonable time, not exceeding six months, then the said fines and penalties shall be levied upon the goods of such person or persons by warrant or precept from any justice of the peace, before whom such conviction shall be, which warrant may be directed to the sheriff of the county, or to the constable in his respective precinct, or to the serjeant of a corporation, to be appraised and valued as in other distresses; and if the offender or offenders be not able to pay the said sum or sums, then he, she, or they, shall have and receive ten lashes upon his or her bare back, well laid on, for every such offence. *a*

Prosecution in two months.

II. *PROVIDED* always, That every prosecution by virtue of this act for swearing, cursing, or for being drunk, shall be made within two months after the offence committed and not afterwards. *a*

No licensed minister to be arrested while performing divine service.

III. NO officer for any civil cause shall arrest any minister of religion licensed according to the rules of his sect, and who shall have taken the oath or affirmation of fidelity to the commonwealth, while such minister shall be publicly preaching or performing religious worship, in any church, meeting-house, or other place of religious worship, on pain of imprisonment and amercement, at the discretion of a jury, and of making satisfaction to the party so arrested. *b*

Any person disturbing a congregation, shall be arrested and bound to good behaviour.

IV. AND if any person shall on purpose, maliciously or contemptuously, disquiet or disturb any congregation assembled in any church, meeting-house, or other place of religious worship, or misuse any such minister being there, he may be put under restraint during religious worship by any justice present, which justice being present, or if none be present, then any justice before whom proof of the offence shall be made, may cause the offender to find two securities to be bound by recognizance in a sufficient penalty for his good behaviour, and in default thereof shall commit him to prison, there to remain till the next court to be held for the same county or corporation, and upon conviction of the said offence before the said court, he shall be further punished by imprisonment and amercement, at the discretion of a jury.

And may be punished by fine and imprisonment. Penalty for labouring on Sunday.

V. IF any person on a sabbath day shall himself be found labouring at his own, or any other trade, or calling, or shall employ his apprentices, servants, or slaves in labour, or other business, except it be in the ordinary household offices of daily necessity, or other work of necessity or charity, he shall forfeit the sum of one dollar and sixty-seven cents for every such offence, deeming every apprentice, servant, or slave, so employed, and every day he shall be so employed, as constituting a distinct offence.

Punishment for adultery or fornication.

VI. EVERY person not being a servant or slave committing adultery, or fornication, and being thereof lawfully convicted by the oaths of two or more credible witnesses, or confession of the party, shall for every offence of adultery, forfeit and pay twenty dollars, and for every offence of fornication ten dollars; to be recovered by the suit or prosecution of the overseers of the poor of the county or corporation, wherein such offence shall be committed, by bill, plaint, or information, in any court of record within this commonwealth, wherein no essoin, protection, or wager of law shall be allowed; which said fines and penalties shall accrue to the overseers of the poor for the use of the poor of the county or corporation, wherein the said offence shall be committed. *c*

Repealing clause.

Proviso.

VII. ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, (except as is herein after provided) shall be, and the same are hereby repealed. *Provided* always, that nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Commencement of this act.

VIII. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXXXIX.

An Act concerning Waste.

[Passed the 26th of December, 1792.]

I. **BE** it enacted by the General Assembly, That if any tenant by the curtesy, tenant in dower, or otherwise for term of life or years, shall commit waste during their several estates or terms, of the houses, woods, or any other thing belonging to the tenants so held without special license in writing so to do, they shall be subject respectively to an action of waste, and shall moreover lose the thing wasted, and recompence the party injured in three times the amount at which the waste shall be assessed. *a*

Forfeitures incurred by tenant for life or years committing waste.

II. IN case any of the said tenants shall aliene their estate, and notwithstanding retain possession of the same and commit waste, he in the reversion shall be entitled to his action of waste, and likewise recover against them the place wasted, and treble damages. *b*

III. IF one tenant in common shall commit waste of the estate held in common, he shall be subject to an action of waste at the suit of the other tenant or tenants in common. *c*

Action of waste by tenant in common.

IV. AN action of waste shall be maintainable by the heir, whether within or of full age, for waste done in the time of his ancestor, as well as in his own time. *d*

By heirs.

V. IF tenant for life commit waste, and he in the reversion brings his action of waste and dieth before judgment, his heir may bring an action of waste for the same. *d*

VI. IF a guardian shall commit waste of the estate of his ward, such ward when he attains his full age shall have his action to recompense him for the injury. *e*

By wards against their guardians.

VII. THE process in an action of waste, shall be summons, attachment, and distress, and if the defendant appear not upon the distress, the waste shall nevertheless be enquired of by a verdict of a jury, and the court proceed to judgment according to the directions of this act. *f*

Process in actions of waste.

VIII. AFTER the commencement of any suit in any court of this commonwealth, the tenant shall have no power to commit waste or estrepement of the land in demand, whilst such suit is depending; and if he do the sheriff shall be commanded to keep the same at the suit of the plaintiff. *g*

Tenant not to commit waste pending the action.

IX. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXL.

An Act concerning Weights and Measures.

[Passed the 26th of December, 1792.]

I. **WHEREAS** the General Assembly of Virginia, at their session in the year one thousand seven hundred and thirty-four, did pass an act, intituled, "*An act for more effectually obliging persons to buy and sell by weights and measures, according to the English standard.*"

preamble.

II. **BE** it therefore enacted by the General Assembly, That the said act shall continue and remain in force, until the Congress of the United States shall have made provision on that subject.

Act of 1734 to be in force until Congress makes some provision on the subject.

III. **PROVIDED** always, That all fines, forfeitures and penalties in the said act mentioned, shall be and enure, one moiety to the commonwealth, and the other to the use of the informer.

Proviso as to appropriation of the penalties.

IV. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

(a) 59, H. 3, ch. 23. 6 Edw'd 1, ch. 5. (b) 11 H. 6, ch. 5. (c) 13 Edw'd 1, ch. 22. (d) 20, Edw'd 1, ch. 2. (e) 9 H. 3, ch. 4 & 5. (f) 13 Edw'd 1, ch. 14. (g) 6 Edw'd 1, ch. 13.

CHAP. CXLI.

An Act concerning Witnesses, and prescribing the Manner of obtaining and executing Commissions for taking their Depositions in certain Cases.

[Passed the 29th of November, 1792.]

Who shall not be admitted as witnesses.

I. **BE** it enacted by the General Assembly, That no person convicted of treason, murder, or other felony whatsoever, shall be admitted as a witness in any case whatsoever, unless he be first pardoned, or shall have received such punishment, as by law ought to be inflicted upon such conviction.

II. NO person convicted of perjury, although he be pardoned or punished for the same, shall be capable of being a witness in any case.

III. NO, negro, mulatto or Indian, shall be admitted to give evidence, but against of between negroes, mulattoes or Indians.

Witnesses failing to attend may be fined, and liable to action of the party.

IV. IF any person summoned as a witness to attend any court within this commonwealth, or to appear before commissioners, referees, or other persons appointed by or under the authority of such court, to take or receive his deposition, or testimony, or upon any order of survey shall fail to attend accordingly, not having a reasonable excuse for such failure, such person shall be fined by the court from whence the *subpœna* issued, sixteen dollars, to the use of the party for whom such witness was summoned; and the witness so failing, shall farther be liable to the action of the party for all damages sustained by the non-attendance of such witness, but if sufficient cause of his or her inability to attend, be shewn to the court at the time he or she ought to have appeared, or at the next succeeding court, then no fine or action shall be incurred by such failure.

Refusing to testify, how to be dealt with.

V. IF any person so summoned and attending in any of the causes above-mentioned, shall refuse to give evidence upon oath, or affirmation (as the case may be) to the best of his or her knowledge, every person so refusing, shall be committed to prison by the court, commissioners, referees, or other persons authorized to take or receive his or her deposition or testimony, there to remain without bail or mainprize, until he or she shall give such evidence.

Their privilege.

VI. WITNESSES shall be privileged from arrests† in all cases except treason, felony, and breaches of the peace, during their attendance at any court, or other place where their attendance shall by *subpœna* first duly executed by a sworn officer, or by some indifferent person who shall have made oath to the due execution thereof, have been required, and in coming to and returning from thence, allowing one day for every twenty miles from their places of abode. *Provided always*, That no person whatsoever attending any of the courts in this commonwealth, or upon any reference or survey, by order of any such court in virtue of any *subpœna*, shall be privileged from an arrest by original or other process, unless such person shall be actually a witness in the matter in such *subpœna* expressed.

Proviso.

How to be summoned.

VII. IN all cases where witnesses are required to attend any court, commissioners or referees, or on any order of survey, a summons shall be issued by the clerk, at the request of either party, or of the commissioners, referees, or surveyor, interested in, or acting under the order of any such court, expressing the day and place where they are to appear, the names of the parties to the suit, and in whose behalf summoned. Any *subpœna* or process to require or compel the attendance of any witness, may be served or executed in the district, county or corporation wherein the said witness shall be found.

Allowance for attending county courts, referees, surveys, &c.

VIII. EVERY witness so summoned to appear at any county court, or to attend commissioners, referees, or other persons for the purpose of giving testimony, or upon any survey of lands, and being an inhabitant of the same county, shall be paid by the person or persons at whose suit the summons issued, fifty-three cents for every day's attendance upon such summons; and every person residing in, and summoned out of another county, shall have the said allowance of fifty-three cents per day for attendance, and be paid for travelling and ferriages to and from court, as witnesses in the superior courts. †

† See ch. 80, sec. 16, whereby witnesses and some others are also privileged in certain cases, unless guilty of the offences in this clause, or of a riot, or have escaped out of prison or custody. ‡ By act of Dec. Sess. 1800, ch. 44, witnesses summoned to attend out of their county in criminal prosecutions, allowed for attendance the same as witnesses attending the District Court.

IX. EVERY witness so summoned and attending the court of appeals, high court of chancery, general court, or any district court, shall be paid by the party at whose suit the summons issued, four cents *per* mile for travelling to the places of attendance, and the same for returning, besides ferriages, and one dollar and four cents *per* day for his attendance, which allowance shall be entered by the clerk of course, except where disputes arise concerning the same, and then such disputes shall be determined by the court. Witnesses in all cases, as well civil as criminal, shall be sworn as to their travelling, ferriages and attendance, for which purpose the clerk or some of his assistants specially empowered by the court, or the commissioners, referees, or surveyor, as the case may be, shall administer the oaths.

For attending the superior courts.

X. NO witness shall be permitted to charge his attendance in more than one suit at the same time, but if he be summoned to attend in several suits, he may charge his attendance to either of the parties by whom he shall be summoned at his election.

For attending in several suits at the same time.

XI. THERE shall not be allowed in the bill of costs the charge of more than three witnesses for the proof of any one particular fact.

Charge allowed of only three witnesses to one fact.

XII. WHEN any witness shall be about to depart the country, or by age, sickness or otherwise shall be unable to attend the court, upon affidavit thereof, or on a certificate that an affidavit has been made to that effect, from any justice of the peace, the clerk of the court in which any suit is or shall be depending, may, on request of either party, award a commission for taking the deposition of such witness *de bene esse*, to be read as evidence at the trial, in case the witness should be unable to attend; but the party obtaining such commission, shall give reasonable notice to the other party, of the time and place of taking the deposition, otherwise the same shall be void. †

Commissions for their examination how to be obtained, when a witness is about to leave the country, or is unable to attend.

XIII. UPON affidavit that any witness resides beyond sea, or in any foreign country, or in any other of the United States, the court wherein the suit is depending, may, on request of either party, direct a commission to issue from the clerk's office, directed to such commissioners, not exceeding five, as shall be nominated and agreed upon by the parties litigant; for which purpose the party applying for a commission in such cases, shall give the adverse party, his attorney or agent ten days previous notice of the day of his intended application to the court, without which no commission shall issue, and if the adverse party, his attorney or agent shall not attend for the purpose, in that case, the party praying the commission may nominate the commissioners himself, any three of whom in either case may proceed to execute the said commission. *Provided nevertheless*, That in either case, reasonable notice shall be given to the adverse party, of the time and place of taking such deposition, and the costs of giving notice as aforesaid, as well as of taking any deposition or depositions in any or either of the United States, or beyond sea, or in any foreign country, may be taxed by the court against the party, who in their opinion, ought in justice to pay the same.

When a witness resides beyond sea, or in any foreign country.

XIV. IF any party in any suit at common law or in chancery, shall make oath, that he verily believes his claim or defence (as the case may be) or a material point thereof depends on a single witness, the court, or the clerk in vacation, may award a commission to take the deposition of such witness *de bene esse*, although he or she be not about to depart the country, nor under any disability, the party in such case, giving reasonable notice of the time and place of taking such deposition to the adverse party.

When a claim or defence depends on a single witness.

XV. WHEN any will shall be produced to any court having jurisdiction in the case of such will, for probat, and any witness or witnesses attesting the same shall reside out of this commonwealth, it shall be lawful for such court to issue a commission or commissions annexed to such will, and directed to the presiding judge of any court of law, to any notary public, mayor, or other chief magistrate of any city, town, corporation, or county, or to such other person or persons as by laws of such country, where such witness, or witnesses may be found, are duly authorized to administer an oath, empowering him or them to take and certify their attestations. If the person to whom such commission shall be directed, shall certify in the manner such acts are usually authenticated by him or them, that the witness or witnesses personally appeared before him or them, and made oath, or affirmed, as the case may require, that the testator signed and

Where a witness will reside out of the state.

† By act of 1799, ch. 3, clerk are allowed to administer oaths for foundation of an official act by them.

published the writing annexed to such commission, as his last will and testament, or that some other person signed it by his direction; that he was of disposing mind and memory, and that he or they subscribed their names thereto in his presence, and at his request, such oath or affirmation shall have the same operation, and the will be recorded in like manner, as if such oath or affirmation had been made in the court from whence such commission issued.

XVI. AND whereas great inconvenience may arise to the suitors in the several courts of this commonwealth, who are litigant with persons residing without this commonwealth, and have not agents or attornies within the same, by the death or removal of witnesses, whose depositions cannot legally be taken for want of notice to such absent persons:

How notice is to be given where one of the parties lives out of the state and has no agent therein.

XVII. *BE it therefore enacted*, That when any commission shall be obtained, to take the deposition of a witness in a suit depending in any of the courts of this commonwealth, where the plaintiff or defendant in such suit doth not reside within the same, or hath not an agent or attorney within the same, to whom notice of the time and place of taking such deposition can be given, then the person obtaining such commission, having published in the *Virginia Gazette*, or in any other public newspaper printed within this commonwealth, four weeks successively, the time and place, when and where, the witness is to be examined, and the name of the witness, together with the names of the parties to the suit in which such witness is to be examined, it shall and may be lawful for any plaintiff or defendant as aforesaid, to proceed to take any deposition authorized by the commission issuing from the court agreeable to law, where the suit depends as aforesaid; and such deposition when taken and returned to the clerk's office agreeable to the rules of the court from whence the commission issued, shall there be filed and allowed to be read in evidence in the same manner, and under the like restrictions as if notice had been duly given to the opposite party; any law, usage, or custom, to the contrary in any wise notwithstanding: and the printer may demand and receive the sum of two dollars for publishing such advertisement four weeks, which shall be taxed in the bill of costs, if the party chargeable therewith shall prevail in the suit.

Repealing clause.

XVIII. ALL and every act and acts, clauses and parts of acts, for, or concerning any matter or thing within the purview of this act, shall be, and the same are hereby repealed.

Commencement of this Act.

XIX. THIS act shall commence in force, from and after the passing thereof.

CHAP. CXLII.

An Act concerning stealing Tobacco on the Highways.

[Passed the 15th of December, 1792.]

Felony to steal tobacco on the highway.

I. *BE it enacted by the General Assembly*, That all and every person and persons, that shall at any time after the commencement of this act, either in the night or day, take, steal and carry away, any hoghead or cask of tobacco, which shall be lying on or near any public highway, or any part of the tobacco contained in the same hoghead or cask, although the said hoghead or cask may not be in the possession of the owner thereof, shall be adjudged a felon, and be punished as in other cases of felony.

Commencement of this Act.

II. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXLIII.

An Act declaring what Remedy the Commonwealth shall have in certain Cases.

[Passed the 25th of December, 1792.]

Actions on the case may be brought against public debtors for recovery of money, &c. due to the commonwealth.

I. *BE it enacted*, That whensoever any person or persons heretofore have, or hereafter may receive, any sum or sums of money or tobacco, or any kind of public securities whatsoever, which of right do or shall appertain to this commonwealth, and such person or persons shall refuse or neglect to pay such money, tobacco, or public securities, or any part thereof, to such officer of this commonwealth, to whom by law the same ought to be paid; then and in that case it shall and may be lawful for the governor, with the advice of the council of state, to institute an action upon the case against such person or per-

sons, their executors or administrators, for money, tobacco, or public securities, (as the case may be) had and received to the use of the commonwealth; which action shall be instituted in the name of the governor for the time being, and his successors, for the use of the commonwealth, and shall not abate by the death, resignation, or removal from office of the governor, in whose name it shall be brought.

II. WHERE such suit shall be brought against any public officer, such officer shall not be permitted to plead any official bond, or any condition or covenant therein, either in abatement or bar thereof.

III. THIS act shall commence and be in force, from and after the passing thereof.

No official bond to be pleaded in abatement or bar thereof.

Commencement of this act.

CHAP. CXLIV.

An Act for appointing Public Notaries.

[Passed the 27th of December, 1792.]

I. **W**HEREAS it will be for the ease and convenience of the inhabitants of this commonwealth, and all others trading hither, that public notaries should be appointed:

Preamble.

II. *BE it therefore enacted*, That the governor, with advice of council for the time being, is hereby empowered and required to nominate and appoint so many notaries public as to him shall seem necessary; and upon the death, resignation, or removal of any such notaries public, to appoint others in his or their room; which said notaries public shall hold their respective offices during good behaviour, and shall use and exercise the said office of notary public for such places, and within such limits and precincts as the governor and council shall direct, to whose protestations, attestations and other instruments of publication due credence is hereby given. *Provided nevertheless*, That every notary public shall previous to his executing the said office, give bond to the governor for the time being, in the penalty of fifteen hundred dollars, conditioned for the due discharge of his said office; and shall in the high court of chancery, the general court, or the county court of his precinct, take the oath of fidelity to this commonwealth, and also an oath that he will without favor or partiality, honestly, diligently and faithfully discharge the duties of a notary public.

Public notaries, how to be appointed.

To give bond and security, and take oaths of fidelity and of office.

III. *AND be it further enacted*, That every public notary shall and may demand and receive for recording in a book to be kept for that purpose, each attestation, protestation, and all other instruments of publication, the sum of eighty-three cents and no more.

Their fees.

IV. THIS act shall commence in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXLV.

An Act to empower Securities to recover Damages in a Summary Way.†

[Passed the 27th of December, 1792.]

I. **B**E it enacted, That in all cases where judgment hath been, or shall hereafter be entered up in any of the courts of record within this commonwealth, against any person or persons as security or securities, their heirs, executors, or administrators, upon any note, bill, bond, or obligation, and the amount of such judgment, or any part thereof hath been paid or discharged by such security or securities, his, her, or their heirs, executors or administrators, it shall and may be lawful for such security or securities, his, her, or their executors or administrators, to obtain judgment by motion against such principal obligor or obligors, his, her, or their heirs, executors or administrators, for the full amount of what shall have been paid by the security or securities, his, her, or their executors or administrators, in any court where such judgment may have been entered up against such security or securities, his, her, or their heirs, executors or administrators. *a*

Summary remedy for securities in notes or obligations against their principals.

II. *AND be it further enacted*, That where the principal obligor or obligors, have or hereafter shall become insolvent, and there have been, or shall be

For one security against another jointly bound with him.

† Amended chs. 174 and 175. (a) 1785, ch. 15.

two or more securities jointly bound with the said principal obligor or obligors in any bond, bill, note, or other obligation, for the payment of money or other thing, and judgment hath been or hereafter shall be obtained against one or more of such securities, it shall and may be lawful for the court before whom such judgment was or shall be obtained, upon motion of the party or parties against whom judgment hath been entered up as securities aforesaid, to grant judgment and award execution against all and every of the obligors and their legal representatives, for their and each of their respective shares and proportions of the said debt.

Securities not to suffer judgments to go against them by confession or default to the injury of the principals.

III. *AND be it further enacted*, That no security or securities, his, her, or their executors or administrators, shall be suffered to confess judgment, or suffer judgment to go by default, so as to distress his, her, or their principal, or principals, if such principal or principals will enter him, her, or themselves, a defendant or defendants to the suit, and tender to the said security or securities, his, her, or their executors or administrators, other good and sufficient collateral security, to be approved of by the court before whom the suit shall be depending.

Summary remedy of common bail against the defendant.

IV. *AND be it further enacted*, That in all cases where judgment hath been, or shall hereafter be entered up in any of the courts of record in this commonwealth, against any person as common bail for the appearance of another, to defend any suit depending in such court, and the amount of such judgment or any part thereof hath been paid or discharged by such common bail, his, her, or their heirs, executors, or administrators, it shall and may be lawful for such common bail, his, her, or their heirs, executors, or administrators, to obtain judgment by motion against the person or persons for whose appearance they were bound, his, her, or their heirs, executors, or administrators, for the full amount of what shall have been paid by the said common bail, his, or her heirs, executors, or administrators, in any court where judgment may have been entered up against such common bail. *Provided always*, that no judgment shall be obtained by motion as aforesaid, unless the party or parties against whom the same is prayed, shall have ten days previous notice thereof.

Commencement of this act.

V. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXLVI.

An Act for regulating the Militia of this Commonwealth.†

[Passed the 22d of December, 1792.]

Preamble.

I. **W**HEREAS the Congress of the United States, did at their last session, pass an act, intituled "*An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States*," and it is expedient for this legislature to carry the same into effect so far as it respects this state :

Arrangement of the militia in brigades and divisions.

II. *BE it therefore enacted*, That the counties of Accomack, Northampton, Princess Anne and Norfolk, shall compose one brigade; the counties of Nansemond, Isle of Wight, Southampton, Surry, Sussex and Prince George, one brigade; the counties of Elizabeth City, Warwick, York, James City, Charles City, New Kent, Henrico and Hanover, one brigade; the counties of Gloucester, Mathews, Middlesex, Essex, King William, King and Queen, Lancaster, Northumberland, Richmond and Westmoreland, one brigade; and the said brigades shall compose one division. That the counties of Loudoun and Fairfax shall compose one brigade; the counties of Fauquier, Prince William, Stafford and King George, one brigade; the counties of Culpeper, Orange, Spotsylvania and Caroline, one brigade; the counties of Louisa, Goochland, Fluvanna, Albemarle and Amherst, one brigade; and the said brigades shall compose another division. The counties of Frederick and Berkeley shall compose one brigade; the counties of Rockingham, Augusta and Shenandoah, one brigade; the counties of Wythe, Russell, Washington, Lee, Grayson and Montgomery, one brigade; the counties of Botetourt, Rockbridge, Greenbrier, Bath and Kanawha, one brigade; the counties of Hampshire, Hardy, Pendleton, Randolph, Harrison, Monongalia and Ohio, one brigade; and the said brigades shall compose another division. The counties of Henry, Patrick, Franklin, Campbell and Bedford, shall compose one brigade;

† Amended chs. 152 and 153.

the counties of *Pittsylvania*, *Halifax*, *Charlotte* and *Prince Edward*, one brigade; the counties of *Dinwiddie*, *Greensville*, *Brunswick*, *Lunenburg* and *Mecklenburg*, one brigade; the counties of *Chesterfield*, *Amelia*, *Nettoway*, *Powhatan*, *Cumberland* and *Buckingham*, one brigade; and the said brigades shall compose another division.

III. *AND be it further enacted*, That the counties of *Berkeley*, *Culpeper*, *Loudoun* and *Frederick*, shall compose two regiments and four battalions each; that the counties of *Middlesex* and *Essex* shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *King* and *Queen* and *King William*, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Northumberland* and *Lancaster* shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Richmond* and *Westmoreland* shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Powhatan* and *Cumberland* shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Harrison* and *Randolph* shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Russell* and *Lee* shall each compose one battalion, which two battalions shall compose one regiment; and the counties of *Charles City* and *New-Kent* shall compose each one battalion, which two battalions shall constitute one regiment; the counties of *Elizabeth City* and *Warwick* one battalion, and the counties of *York* and *James City* one battalion; which two battalions shall compose one regiment; and each of the other counties in this commonwealth, and also the city of *Richmond* and borough of *Norfolk*, shall compose each one regiment and two battalions.

In regiments and battalions.

IV. *AND be it further enacted*, That the General Assembly shall by joint ballot of both houses, appoint an adjutant-general for the militia of this state, and also a major-general to each division, and a brigadier-general to each brigade; which major-generals and brigadiers shall reside within the limits of their respective commands. Each major-general shall appoint his own aids-de-camp, and each brigadier-general his own brigade inspector, who shall also reside within the limits of their respective divisions and brigades.

Officers, how to be appointed.

V. *AND be it enacted*, That the courts of the several counties and corporations shall from the field and other officers who at present hold commissions in the militia of the respective counties and corporations, proceed to recommend to the Executive the officers necessary to complete the regiments and battalions and companies pursuant to this act, by grades and seniority, and the persons so recommended, shall be commissioned by the governor, agreeable to the constitution of this state.

VI. ALL persons holding commissions under the late militia laws of this state, and who shall not be recommended by their respective courts, shall be considered as supernumerary officers, and may be recommended by the respective county and corporation courts to supply vacancies hereafter happening in the officers of the militia.

Officers not recommended by the county courts to become supernumeraries.

VII. *AND* whereas it will be productive of considerable advantages to the disciplining the militia, to have frequent meetings of the commissioned officers of the several regiments and battalions; *Be it enacted*, That the commissioned officers of the several regiments and battalions shall meet twice in every year, for the purpose of being trained and instructed by the brigade inspector. The days and places of meeting to be fixed on by the commanding officer of the brigade to which the regiments and battalions belong. The officers thus assembled, shall each continue two days and no longer, for every time they shall be called out. Every officer failing to attend such meeting, on being summoned (not having a reasonable excuse to be adjudged of by a court martial) shall forfeit and pay five dollars, to be appropriated as the other fines are by this act directed.

Commissioned officers to meet twice in every year to be trained.

VIII. IT shall be the duty of the executive to number by ballot the several divisions, brigades, and regiments, and cause the same to be registered in the office of the adjutant-general; and every commission hereafter issued by the executive, shall express the number of the division, brigade, or regiment, respectively, to which the person to whom the same is directed shall belong.

Divisions, brigades, and regiments to be numbered and registered in the adjutant general's office.

IX. *AND be it further enacted*, That the commanding officers of regiments, battalions and companies, to be appointed and commissioned by virtue of this act, shall meet at their respective courthouses on some day in the month of *March* or *April* next, to be appointed by the commanding officers of regi-

Counties to be divided into districts for forming regiments, battalions, and companies.

ments, then and there to divide their respective counties into districts, for the purpose of forming the regiments, battalions, and companies, by this act established; which districts so laid off, shall be designated by certain lines and bounds to be established by them, and recorded by the clerks of the courts-martial respectively herein after to be appointed.

Companies to be divided into divisions.

X. *AND be it further enacted*, That it shall be the duty of the commanding officer of each company so inrolled, to proceed forthwith to divide his company into divisions by ballot from one to ten, for the purpose of a regular routine of duty when called into actual service, and shall return a roster of each division and its number in rotation, within fifteen days, to the commanding officer of his battalion, who shall forthwith transmit the same to the commanding officer of the regiment, who shall order the same to be recorded by the clerk of the court-martial. The same regulations shall be observed by every commanding officer of a company, battalion, and regiment, on the subsequent inrollment of any person therein, unless such person shall produce a certificate of his having been before draughted for the above purpose, in which case he shall be inrolled accordingly.

Persons exempted from militia duty.

XI. *AND be it further enacted*, That the members of the council of state; judges of the superior courts; speakers and clerks of both houses of the general assembly; the clerks of the superior and inferior courts; the attorney-general; the treasurer and his clerks; the auditor of public accounts and his clerks; clerks of the council of state; the register of the land-office and his clerks; all inspectors of tobacco; all professors and tutors, and students at the college of *William and Mary*, and other public seminaries of learning; all ministers of the gospel licensed to preach according to the rules of their sect, who shall have previously taken before the court of their county an oath of fidelity to the commonwealth; keepers of the public, district, and county jails, and of the public hospital; millers; and all quakers and menonists religiously scrupulous of bearing arms, and having a certificate from their respective societies, according to the rules thereof, of their being members of such society, shall be, and they are hereby exempted from the duties required by this act.

XII. *AND* whereas it will be of great utility and advantage in establishing a well disciplined militia, to annex to each battalion a light company to be formed of young men from eighteen to twenty-five years of age, whose activity and domestic circumstances will admit of a frequency of training, not practicable or convenient for the militia in general, and returning to the main body on their arrival at the latter period, will be constantly giving thereto a military pride and experience, from which the best of consequences will result:

A company of grenadiers, light infantry, or rifle-men, to be annexed to each battalion.

XIII. *BE it enacted*, That the governor with the advice of council, shall issue commissions for a captain, lieutenant, and ensign to each battalion, out of the present commissioned officers therein; and the said companies shall be distinguished by the denomination of grenadiers, light-infantry, or rifle-men, at the discretion of the commanding officer of the battalion. Every person belonging to the said light companies, shall wear while on duty, such caps and uniforms as the executive shall direct, to be purchased by the commanding officer of the battalion, out of the monies arising on delinquents. The captain thereof shall after qualifying as is directed for other officers, proceed to enlist by voluntary enlistments in his company, a sufficient number of young men as before described. And as the men of such light company shall from time to time arrive at the age of twenty-five years, the captain shall make report thereof to the commanding officer of the battalion, who shall order them to be enrolled in the company, whose districts they may respectively live in, and deficiencies shall be supplied by new enlistments, and the said companies shall in all respects be subject to the same regulations and orders as the rest of the militia.*

A company of cavalry, and a company of artillery, to be annexed to each division.

XIV. *AND be it further enacted*, That the governor with the advice of council, shall, and he is hereby empowered to appoint and commission at their own discretion, at least one captain and two lieutenants in each division, who are hereby authorized and empowered to enlist by voluntary enlistment, and in such proportion to each officer respectively so appointed as the executive shall direct, a company, to be denominated the company of artillery. In like manner commissions shall issue for at least one captain, two lieutenants, and one cornet, who shall also by voluntary enlistments, and in the same proportions to their respective ranks, enlist a company to be denominated

* *Some of the clause as declares that the men shall be from 18 to 25 years of age, &c. &c. &c. (p. 17).*

the company of cavalry. *Provided*, That the number of companies of artillery and of cavalry, shall not exceed one for each brigade. *Provido.*

XV. *AND be it further enacted*, That each and every officer appointed and commissioned by virtue of this act, shall previous to their entering on the execution of their respective offices, take the following oath:—

I do swear that I will be faithful and true to the commonwealth of Virginia, of which I profess myself to be a citizen, and that I will faithfully and justly execute the office of a _____ in the _____ regiment of the militia of Virginia, according to the best of my skill and judgment: So help me GOD." Oaths of officers.

XVI. THE adjutant-general shall have full power and authority to convene the brigade majors and inspectors at such times and places as the good of the service may require, and he shall think proper, and generally to establish such rules and regulations for conducting the business of his department as he may think expedient and necessary. Any brigade major or inspector, failing to attend such meeting, when duly notified thereof, not having a reasonable excuse for such failure, shall forfeit and pay fifty dollars, to be appropriated as the other fines are directed by this act. Adjutant-general may convene brigade majors and inspectors.

XVII. THERE shall be a private muster of each company of grenadiers, light infantry, riflemen, artillery and cavalry once in every two months, except in the months of *December, January, and February* in every year, and every other company, formed by virtue of this act, once in three months, (except as before is herein excepted) to be appointed by the commanding officer thereof, at, or as near as may be to the centre of his company district. There shall be a muster of each battalion in the month of *May*, in every year, to be appointed by the commanding officers of the regiments to which such battalions respectively belong, at, or as near as may be to the centre of the battalion; and a muster of each regiment in the month of *October*, in every year, to be appointed by the brigadier-general or commanding officer of the brigade, to which such regiment belongs, at, or as near as may be to the centre of the regimental district; which said company, battalion, and regimental musters shall continue one day each, and no longer. Of the times and places of the said musters, the brigadier generals or commanding officers of brigades for the time being, shall cause notice to be given to the commanding officers of regiments; the commanding officers of regiments shall give notice of the regimental and battalion musters, to the commanding officers of battalions; the commanding officers of battalions shall give notice of the regimental and battalion musters, to the captains or commanding officers of the companies; and the captains or commanding officers of the companies shall give notice of the regimental, battalion, and private musters, to every person of their respective companies; and to that end the commanding officers of companies shall have power to order so many of their serjeants as they shall think fit, to give such notice, which may be done by personal summons by the said commanding officer, or serjeant so ordered, or by either of them, leaving notice in writing at the usual place of abode of the person so to be notified. The notice to be given by the commanding officers of brigades, regiments, and battalions, shall be in writing delivered in person, or left at the usual place of abode of each person to be notified, either by such commanding officers themselves, or by such officer or officers of their respective commands, as they may think fit to order. The said notices shall be given by the commanding officers of the brigade, to the commanding officers of regiments, at least thirty days; by the commanding officers of regiments to the commanding officers of battalions, at least fifteen days; by the commanding officers of battalions to the commanding officers of companies, at least ten days; and by the commanding officers of companies to each person in their companies, at least five days before such regimental, battalion, or private musters, (as the case may be) shall be appointed to be had. Any officer ordered as aforesaid to give such notices, and failing therein, shall for every offence forfeit and pay twenty dollars: And every serjeant so failing, shall forfeit and pay three dollars for every such failure, to be recovered as other fines hereafter to be established. Every officer and soldier shall appear at his respective muster-field on the day appointed, by eleven o'clock in the forenoon. At every muster, each captain or commanding officer of a company shall call his roll, examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof at the next regimental or battalion muster, to the commanding officer of his battalion, including those which may occur on that day. And Musters of the companies.
Of the battalions;
Of the regiments;
Notice of them, by whom, and how to be given.
Penalties on officers, and serjeants failing to give notices.
Rolls to be called, and delinquencies noted.

every commanding officer of a battalion, shall at their regimental or battalion musters, (as the case may be) in like manner call his roll, examine and note down all delinquencies in his battalion, and make return thereof, together with those reported from commanding officers of companies, to the commanding officer of the regiment to which he belongs, on the day next succeeding such regimental or battalion musters, (as the case may be) who shall lay the whole before the court hereafter appointed to take cognizance of, and determine on them; *Provided*, That the commanding officer of a battalion shall not be obliged to extend his roll call, or individual examination, beyond the officers, unless he shall observe some apparent necessity therefor; and to each of the said returns shall be annexed the following certificate, to wit;

Form of return of delinquencies.

I, do certify, that the returns herunto annexed, contain all the delinquencies which have occurred in my company since my last return, having examined the same as the law directs:

And to the battalion returns shall be added, "and that the reports which accompany them, are all which have been made by the commanding officers of battalions."

Returns of companies.

XVIII. EVERY captain or commanding officer of a company, shall within ten days after every regimental and battalion muster, make up and report to the commanding officer of his battalion, a return of his company, in such manner and form as shall be furnished by the proper officer from time to time. It shall be the duty of the commanding officers of battalions to make like returns to the commanding officers of regiments, in ten days after such regimental or battalion musters, who shall cause the adjutant of his regiment to make like returns thereof to their respective brigade inspectors within thirty days thereafter.

Of battalions;
Of regiments;

Serjeants, corporals, drummers and fifers to be appointed to each company.

XIX. EACH captain or commanding officer of a company, shall appoint to his company four serjeants, four corporals, a drummer and fifer, to be approved of by the commanding officer of his battalion; and all vacancies which may thereafter happen, shall be filled up by appointments in like manner.

The officer next in rank to take command in the absence of his superior.

XX. IN all cases of death, absence or resignation, of any lieutenant colonel commandant, major, or captain, the next officer in rank in his respective command, shall be considered as the commanding officer during such vacancy, and liable to perform the duties required by this act, and for neglect therein, shall incur the penalties annexed thereto.

Militia to be exercised.

XXI. IT shall be the duty of every commander of a regiment, battalion, or company, at every of their respective musters, to cause the militia to be exercised and trained agreeable to the mode of discipline prescribed by Congress, under pain of being arrested and tried for breach of their duty; and for this purpose the said officers are hereby authorized to order the most expert and fit officer in their respective commands, to perform that duty.

Officers to be furnished with printed copies of the rules of discipline.

XXII. AND to the end that a general knowledge of the rules of discipline established by Congress in their resolution of the twenty-ninth day of *March*, one thousand seven hundred and seventy-nine, may be diffused, the executive is hereby authorized and required, to procure and have a sufficient number of copies of the said rules printed and bound in boards, to afford to every commissioned officer of the militia, one, and to cause them to be delivered to the commanding officers of brigades, to be by them duly distributed without delay; and upon the death, resignation, or removal of any officer, as aforesaid, the plan delivered him shall revert to the public, and the commanding officer of the battalion in which such vacancy shall occur, shall deliver the same to a new appointed officer, who may not have received one, and for defraying the necessary expense thereof, the executive shall draw on the contingent fund.

Officers may be arrested for misbehaviour.

XXIII. ANY officer who shall be guilty of disobedience, or other misbehaviour when on duty, or shall at any time be guilty of any conduct unbecoming the character of an officer, shall be put under an arrest by his commanding officer, and tried as hereafter shall be directed.

Non-commissioned officers and soldiers may be confined, or bound neck and heels for disobedience or mutiny.

XXIV. IF any non-commissioned officer, or soldier, shall behave himself disobediently or mutinously, when on duty, or before any court, or board, directed by this act to be held, the commanding officer, court, or board, may confine him for the day, or cause him to be bound neck and heels for any time not exceeding five minutes.

By-standers may be confined for molesting any officer or soldier on duty.

XXV. IF any by-stander shall interrupt, molest, or insult any officer or soldier while on duty at any muster, or shall be guilty of like conduct before any court or board as aforesaid, the commanding officer, or such court or board, may cause him to be confined for the day.

XXVI. THE commanding officers of regiments shall cause to be purchased, out of the money arising from the fines, a set of colours for his regiment, and also a set of colours for each battalion in his regiment. He shall also procure in like manner, for each company in his regiment, a drum and fife, or bugle-horn, and on the colours and drums shall be marked the number of the regiment and battalion, together with the name of the county to which they belong.

Colours to be procured.

Drums and fifes, or bugle-horns.

XXVII. *AND be it further enacted*, That the governor, with the advice of council, be authorised and empowered, on any invasion or insurrection, or probable prospect thereof, to call forth such a number of militia, and from such counties as they may deem proper; and for the accommodation, equipment, and support of the militia, so at any time to be called forth, the governor, with the advice aforesaid, may appoint such quarter-masters, commissaries, and other staff, as to them shall seem proper, and to fix their pay and allowances, and shall also take such measures for procuring, transporting, and issuing all stores which may be necessary, as to them shall seem best. Orders for the militia to be called forth, as aforesaid, shall be sent to the commanding officers of brigades, with a notification of the place or places of rendezvous, who shall immediately take measures for detaching the same, with the necessary number, and ranks of officers by detail and rotation of duty.

Militia to be called forth in case of invasion or insurrection.

XXVIII. THE lieutenant colonel commandant, or commanding officers of regiments from which detachments are drawn, shall cause to be procured by impressment or otherwise, for each company, a waggon, team, and driver, six axes, and six camp-kettles, or pots of convenient size, all which shall be delivered to the commanding officer of the company, who shall be accountable for returning the same when his tour is over, and the articles aforesaid shall be returned to the owners, who shall be allowed for the use of the same, whatever shall be adjudged by the court herein after appointed for enquiring into delinquencies: And to the end that if any article impressed, be lost, the owner may be paid for the same, the lieutenant colonel commandant, or commanding officer, shall cause all property by him impressed by virtue of this act, to be valued by two or more freeholders on oath, before the same shall be sent away; and upon proof being made of any article being lost, the valuation thereof shall be allowed, without any allowance for the use, and the said allowance shall be certified to the auditor of public accounts. The said court shall make enquiry into the cause of such loss, and if it shall appear that the said loss was occasioned by the misconduct or inattention of any officer, the lieutenant colonel commandant, or commanding officer, is hereby authorised and required to prosecute a suit against such officer for the recovery of damages for the use of the commonwealth.

Each company to be furnished with a waggon, team, &c. by impressment or otherwise.

Articles impressed to be valued.

And the owners paid therefor if lost.

Officers answerable to the public, if lost through neglect.

XXIX. IF it shall appear to the executive, upon calling forth the militia as aforesaid, that the necessary number and ranks of officers will not attend the detachments for officering them at the places of rendezvous, the governor with the advice of council, is hereby authorised to appoint such officers as may be necessary from the counties called upon, as they may think proper, to join the detachment so raised.

Executive to appoint officers when necessary.

XXX. IF a sudden invasion shall be made into any county in this commonwealth, or in case of an insurrection in any county, the commanding officer in such county is hereby authorised and required, to order out the whole or such part of his militia as he may think necessary, and in such manner as he may think best, for repelling or suppressing such insurrection, and shall call on the commanding officers of regiments in the adjacent counties, for such aid as he may think necessary, who shall forthwith in like manner furnish the same; and for assembling the militia required upon such occasions, or by orders of the executive, the same measures shall be taken to summon them as is directed in the case of musters.

Commanding officer in a county, may order out militia in invasions or insurrections.

XXXI. WHENEVER any militia shall be called forth into actual service as aforesaid, they shall be governed by the articles of war which govern the troops of the United States. And courts-martial shall be held as are therein directed, to be composed of militia officers only, for the trial of any person in the militia; but to the cashiering of any officer, or capital punishment of any person, the approbation of the executive shall be necessary; and when any militia shall be in actual service, they shall be allowed the same pay and rations as are allowed by the Congress of the United States to the troops in the service of the United States.

Militia in service to be governed by the articles of war of the United States.

Their pay and rations.

XXXII. *AND be it further enacted*, That the commanding officer of every battalion of militia, shall from time to time, as he shall deem it necessary, ap-

Patrollers to be appointed.

Their duty?

appoint an officer, and so many men of the militia as to him shall seem necessary, not exceeding four, once in every month, or oftener if thereto required by such officer, to patrol and visit all negro quarters and other places suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons, as aforesaid, unlawfully assembled, or any others strolling about from one plantation to another, without a pass from his or her master, mistress or owner, and carry them before the next justice of the peace, who, if he shall see cause, is hereby required to order every such slave, servant, stroller, or other disorderly person as aforesaid, to receive any number of lashes, not exceeding twenty, on his or her bare back; and in case one company of patrollers shall not be sufficient, more companies may in like manner be ordered for the same service. And after every patrol, the officer of every party shall return to the captain of the company to which he belongs, a report in writing upon oath (which oath such captain is hereby empowered to administer) of the names of those of his party who were upon duty, and of the proceedings of such patrol; and such captain shall once in every month deliver such patrol returns to the commanding officer of his battalion, by whom they shall be certified and laid before the next court-martial, and if they shall adjudge the patrollers to have performed their duty according to law, the said court shall certify the same to the county court, who are thereupon empowered and required to levy fifty cents for every twelve hours each of them shall so patrol; and every commanding officer failing to appoint patrollers according to the directions of this act, shall forfeit and pay thirty dollars; and every person appointed to patrol, failing to do his duty, shall forfeit and pay three dollars for every such failure; which fines shall be laid, collected, accounted for, and appropriated as is herein directed for laying, accounting for, and appropriating the several fines and penalties by this act directed.*

Their pay.

Penalty for failing to do their duty.

Courts martial to be held for the trial of officers.

Officers by whom to be arrested.

Appeals may be made from the sentence of a court-martial to the executive. Evidence, how to be procured.

Courts for assessment of fines, when and where to be held.

XXXIII. AND whereas it is necessary that certain tribunals be instituted for the trial of offences as they are to be viewed in a military light, as well as for enquiring into delinquencies and assessing fines thereon: *Be it therefore enacted*, That the governor shall have power to arrest the major generals, and all other officers for any misconduct whatever, and upon trial and conviction, may censure or cashier them; a lieutenant-colonel commandant may arrest any officer under his command, and report him to the governor for trial, or at the option of such lieutenant-colonel commandant, a general court-martial, to consist of thirteen officers, may by his order be held within the limits of his regimental district, for trial of such as shall be under the rank of a field-officer. The president of the said court shall be a field-officer, and fix at least of the members shall be captains, and where there is not a sufficient number of officers in any regiment to constitute a court where the arrest is made, the commanding officer of the regiment may call upon the commanding officer of any adjacent regiment, to order as many officers from such regiment as will be sufficient to make a court, and such court may, on conviction, censure or cashier any officer so tried, and their sentence shall be final; saving to such officer an appeal to the executive, if he shall think proper; in which case the commanding officer shall furnish him with a copy of the proceedings of the said court. Any non-commissioned officer or soldier offending, shall be tried by a like general court-martial, and may, on conviction, be censured or fined at the discretion of the court. For obtaining the necessary evidence for the trials aforesaid, the governor, or the commanding officer of the regiment (as the case may be) shall issue his summons, and any person so summoned, failing to attend, shall forfeit and pay, upon a summons from the governor, thirty dollars, and upon a summons from the commanding officer of a regiment, fifteen dollars; to be reported by the commanding officer, amongst other delinquencies, to the court aforesaid.

XXXIV. *AND be it further enabled*, That the commanding officers of regiments shall, on some day in the months of *May* and *October*, not exceeding fifteen, nor less than ten days after their regimental and battalion musters, order the commanding officers of battalions and companies, to meet at the places where their last battalion musters respectively were held, a majority of whom shall form a court of enquiry and assessment of fines, and it shall be the duty of the lieutenant-colonel commandant to preside at such boards, and in case of his

* See act of Dec. sess. 1800, ch. 39, concerning patroles. This allows a justice of peace to order out patroles.

absence by sickness or otherwise, the next officer in rank shall preside. The said court shall take the following oath, to be administered by the senior officer present, and afterwards by any other officer of the said board to him, to wit:

I do swear, that I will truly and faithfully, enquire into all delinquencies which appear on the returns to be laid before me, and will assess the fines thereon as shall seem just, without favor, partiality, or affection. So help me GOD.

The lieutenant-colonel commandant shall then lay before the said court all delinquencies, as directed by this act, whereupon they shall proceed to hear and determine on them.

XXXV. ALL fines to be assessed by virtue of this act, shall be collected by the sheriff of the county, upon a list thereof certified by the clerk of the said court, and delivered to the sheriff, on or before the first day of *January*, in every year, who shall give his receipt therefor, and account for the same to the lieutenant-colonel commandant, or his successor, and be allowed the same commissions as for other public monies, on or before the first day of *November*, in the same year; and on failure, the commanding officer, or his successor, shall, on ten days previous notice, obtain judgment for the same in the county or corporation court with costs; and should any person so charged with fines, fail to make payment on or before the first day of *May*, in any year, the sheriff is hereby authorized to make distress and sale therefor, in the same manner as is directed in the collection of taxes.

Fines to be collected by the sheriffs;

by distress when necessary.

XXXVI. THE commanding officer of every regiment shall on or before the thirty-first day of *December*, in every year, render to the executive an account upon oath of all monies which have come into his hands by virtue of his office, and of his disbursements; and if there shall remain any money in his hands, the same shall be paid into the treasury in aid of the contingent fund.

Officers to render accounts of fines received.

XXXVII. AND for enforcing obedience to this act, *Be it enacted*, That the following forfeitures and penalties shall be incurred for delinquencies, *viz.* By a lieutenant-colonel commandant, or commanding officer of a regiment, for failing to take any oath, to summon any court or board, to attend any court or board, to transmit any recommendation of an officer or officers to the governor, to deliver any commission or commissions, to appoint a regimental or battalion muster, to report delinquencies, to make returns of his regiment as by this act directed, shall for each and every such offence or neglect, forfeit and pay seventy dollars; failing to send into actual service any militia legally called for, or to turn out his militia upon any invasion or insurrection of his county, two hundred dollars. By a major for failing to take any oath, to attend any court or board, to give notice of any regimental or battalion muster, to examine his battalion, to report delinquencies, or to make any return as directed by this act, he shall forfeit and pay for each and every offence and neglect, thirty dollars; failing to call forth from his battalion with due dispatch, any detachment of men and officers, as shall be required from time to time by the commanding officer, or any call from the governor, invasion of, or insurrection in his county, or requisition from any neighbouring county, eighty dollars. By a captain for failing to take an oath, to attend any court, to enroll his company, to appoint private musters, to give notice of a regimental or battalion muster, to attend any muster armed, to call his roll, examine his company and report delinquencies, to make any return as directed by this act, he shall forfeit and pay for each and every such offence and neglect, twenty dollars; failing to call forth such officers and men as shall from time to time be legally called from his company, upon any call from the governor, invasion of, or insurrection in the county, or requisition from an adjacent county, or failing on any such occasion to repair to the place of rendezvous, he shall forfeit and pay forty dollars. By a subaltern officer, for failing to take any oath, to attend any court, or muster armed as directed, for each and every such offence, he shall forfeit and pay ten dollars; failing to repair to the place of rendezvous, armed as required, when ordered upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay twenty dollars. And moreover, the said officers for any of the said offences, shall be liable to be arrested and tried for the same as military offenders. By a non-commissioned officer or soldier, for failing to attend at any muster, armed and equipped as directed by law, fifty cents; failing to repair to his rendezvous

Fines to be paid for delinquencies; by a commanding officer of a regiment.

By a major.

By a captain.

By a subaltern.

By a non-commissioned officer or private.

Arms, &c. of militia exempted from executions, distresses, &c. and their persons from arrests at musters and in service.

Richmond, Williamsburg and Norfolk militia to be under the like regulations as the militia of the counties.

Courts martial may remit fines;

And exempt persons from militia duty for bodily infirmities.

Courts martial for the trial of general officers.

Salaries of the adjutant general and brigade inspectors.

Commencement of this act.

when ordered, upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay ten dollars.

XXXVIII. ALL arms, ammunition, and equipments of the militia, shall be exempted from executions and distresses at all times, and their persons from arrests in civil cases, while going to, continuing at, or returning from musters, and while in actual service.

XXXIX. THE commanding officers of regiments, shall on the day of his regimental muster, first to be held under this act, his muster being over, order the majors and captains of his regiment to assemble at some convenient place, at or near the muster ground, and then and there appoint by ballot a clerk and provost martial, who shall attend the courts or boards herein before directed to be held; such clerk shall keep a fair record of the proceedings of such courts or boards, as also of the roster returned by the several captains or commanding officers of companies for regular routine of duty, and all other duties required by this act; and together with the provost martial, receive such allowance, to be paid out of the fines arising from delinquencies, as the court or board shall think reasonable.

XL. THE militia of the city of *Williamsburg*, city of *Richmond*, and borough of *Norfolk*, shall have their officers appointed, and be under the same rules and regulations as the different counties.

XLI. THE commanding officers of regiments, are hereby empowered to receive the commission of any officer in his regiment, who may think proper to resign, and shall notify such resignation to the next succeeding court, in order that such vacancy may be supplied.

XLII. ANY court-martial may for good cause shewn, remit any fines imposed by a former court-martial, provided that not more than two courts-martial shall have intervened between such imposition and application for remission.

XLIII. COURTS-MARTIAL may exempt any militia man from duty on account of bodily infirmity, and may again direct such persons to be inrolled when able to do duty.

XLIV. FOR the trial and punishment of the adjutant-general, major-generals, and brigadier-generals, *Be it enacted*, That any major-general, or brigadier-general offending under this act, shall be arrested and tried in the following manner, *viz.* A major-general shall be arrested by the commander in chief of the state upon any misconduct of his own knowledge, or upon complaint lodged in writing by any commissioned officer, who shall thereupon order a general court-martial, to consist if convenient of the remaining major-generals, the brigadier-generals of the division, over which such major-general is appointed, or as many of them as can conveniently attend, and as many lieutenant-colonel commandants and majors, as shall make up the number of thirteen in the whole, who shall constitute a court-martial for the trial of such offenders. Any brigadier-general may in like manner be arrested for any offence committed under this act, by the commander in chief of the state, or by the major-general of the division to which he belongs, and tried by a court-martial, to consist of one major-general, and not more than four brigadiers, and as many lieutenant-colonel commandants, majors and captains, as will be sufficient to constitute a court, to consist of thirteen members in the whole, which courts shall proceed to hear and determine all such offences, and give judgment according to the right of the case, to be approved or disapproved by the commanding officer of the state.

XLV. *AND be it further enacted*. That the adjutant-general shall be allowed four hundred dollars *per* year; and that each brigade inspector shall be allowed one hundred and fifty dollars *per* year, for the duties herein required of them, to be paid by the treasurer, on warrant from the auditor, who is hereby authorized and required to grant the same quarter yearly, on proper application being made.

XLVI. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXLVII.

An Act Repealing under certain Restrictions, all Statutes or Acts of the Parliament of Great-Britain, heretofore in Force within this Commonwealth.

[Passed the 27th of December, 1792.]

I. **W**HEREAS by an ordinance of convention, passed in the month of Preamble.
May, in the year of our Lord, one thousand seven hundred and seventy-six, intituled "*An Ordinance to enable the present magistrates and officers to continue the administration of justice, and for settling the general mode of proceedings in criminal and other cases, till the same can be more amply provided for,*" it is among other things ordained, "That the common law of England, all statutes or acts of parliament made in aid of the common law prior to the fourth year of the reign of King James the first, and which are of a general nature, not local to that kingdom, together with the several acts of the General Assembly of this colony now in force, so far as the same may consist with the several ordinances, declarations and resolutions of the general convention, shall be the rule of decision, and shall be considered in full force, until the same shall be altered by the legislative power of this colony." a

II. AND whereas the good people of this commonwealth may be ensnared by an ignorance of acts of parliament, which have never been published in any collection of the laws, and it hath been thought adviseable by the General Assembly, during their present session, specially to enact such of the said statutes as to them appear worthy of adoption, and do not already make a part of the public code of the laws of Virginia.

III. BE it therefore enacted by the General Assembly, That so much of the above recited ordinance as relates to any statute or act of parliament, shall be, and is hereby repealed; and that no such statute or act of parliament shall have any force or authority within this commonwealth.

IV. PROVIDED always, That all rights arising under any such statute or act, and all crimes and offences committed against the same, at any time before the commencement of this act, shall remain in the same condition in all respects, as if this act had never been made.

V. SAVING moreover to this commonwealth, and to all and every person and persons, bodies politic and corporate, and each and every of them, the right and benefit of all and every writ and writs, remedial and judicial, which might have been legally obtained from or sued out of any court or jurisdiction of this commonwealth, or the office of the clerk of any such court or jurisdiction, before the commencement of this act, in like manner, with the like proceedings thereupon to be had, as fully and amply, to all intents, constructions and purposes, as if this act had never been made; any thing herein contained, to the contrary, or seeming to the contrary, notwithstanding.

VI. THIS act shall commence and be in force, from the passing thereof.

No statute or act of the parliament of Great-Britain to have any force within this state.

Proviso as to rights arising under, and crimes committed against them before the commencement of this act.

Saving the right to writs remedial and judicial, and the proceedings thereon.

Commencement of this Act.

CHAP. CXLVIII.

An Act for Supplying the Defect of Repealing Clauses, to Certain Acts therein mentioned.

[Passed the 28th of December, 1792.]

I. **W**HEREAS the General Assembly, at their present session, have directed a republication of the laws of this commonwealth, which are of a general concern, among which certain acts subsequent in their date to other acts on the same subject, have no repealing clauses, and inconveniences may arise from the omission thereof:

II. BE it therefore enacted, That all and every act and acts, clause and clauses, part and parts of acts, antecedent to, and within the purview of an act passed by the General Assembly of this commonwealth, at their session in October, one thousand seven hundred and eighty-five, intituled, "*An Act to prevent the circulation of private Bank Notes,*" one other act passed at the same session, intituled, "*An act concerning Estrays,*" one other act of the same session, intituled, "*An act concerning Public Roads,*" and one act passed at their session in

Preamble.

All acts antecedent to certain enumerated acts on the same subjects, repealed.

the year one thousand seven hundred and eighty-six, intituled, "*An act against Usury*," one other act of the same session, intituled, "*An act prescribing a method of protesting inland Bills of Exchange, and allowing assignees of obligations to bring actions thereupon in their own names*," and one other act passed in their session of one thousand seven hundred and eighty-seven, intituled, "*An act for the relief of persons who have been or may be injured by the destruction of the Records of County Courts*," for so much of every such act, clause or part of act as relates to any subject, matter, or thing, within all or any of the provisions in the said recited acts, or either of them contained, shall be, and the same are hereby as fully repealed, as if the said recited acts had severally contained a clause repealing former acts on the same subject.

Commencement of this act.

III. THIS act shall commence and be in force, from the passing thereof.

CHAP. CXLIX.

An Act providing for the Republication of the Laws of this Commonwealth.

[Passed the 28th of December, 1792.]

Bill of rights and the constitution to be prefixed to the code of laws.

Acts to be published in the code with those which have been revised.

I. **B**E it enacted by the General Assembly, That the declaration of rights, made by the representatives of the good people of *Virginia*, assembled in full and free convention, which rights do pertain to them and their posterity as the basis and foundation of government; and the constitution or form of government agreed to, and resolved upon by the delegates and representatives of the several counties and corporations of *Virginia*, shall be prefixed to the code of laws as revised and enacted by the present session of the General Assembly; and that the following acts of Assembly shall be published from the enrolled bills in the same code, to wit: "*An act for confirming and better securing the titles to land in the Northern Neck, held under the Right Honorable Thomas Lord Fairfax, Baron of Cameron, in that part of Great-Britain called Scotland*," "*An act for confirming the grants made by his Majesty within the bounds of the Northern Neck*," "*An act to empower the freeholders of the several towns not incorporated, to supply the vacancies of the trustees and directors thereof*," "*An act concerning wrecks*," "*An act to authorize the Delegates of this State in Congress, to convey to the United States in Congress assembled, all the right of this commonwealth to the territory North-westward of the river Ohio*," "*An act for securing to authors of literary works, an exclusive property therein for a limited time*," "*An act to approve, confirm, and ratify the compact made by certain commissioners appointed by the General Assembly of the State of Maryland, and commissioners appointed by this commonwealth*," "*An act for establishing religious freedom*," "*An act to prevent frauds and perjuries*," "*An act providing that wrongful alienations of land, shall be void so far as they be wrongful*," "*An act to prevent the circulation of private bank notes*," "*An act concerning aliens*," "*An act directing that none shall be condemned without trial, and that justice shall not be sold or deferred*," "*An act forbidding and punishing affrays*," "*An act against conspirators*," "*An act against conveying or taking pretended titles*," "*An act prescribing the punishment of those who sell unwholesome meat or drink*," "*An act for reforming the method of proceeding in writs of right*," "*An act concerning partitions and joint rights and obligations*," "*An act providing that actions popular prosecuted by collusion, shall be no bar to those which be prosecuted with good faith*," "*An act declaring when the death of persons absenting themselves shall be presumed*," "*An act for the relief of persons who have been or may be injured by the destruction of the records of county courts*," "*An act to supply the defect of evidence of the royal assent to certain acts of assembly under the former government*," "*An act to authorize the establishment of fire companies*," "*An act for the appointment of harbour-masters and declaring their duty*," "*An act concerning estrays*," "*An act concerning public roads*," "*An act directing what persons shall be let to bail*," "*An act for the suppression and punishment of riots, routs, and unlawful assemblies*," "*An act against usury*," "*An act prescribing the method of protesting inland bills of exchange, and allowing assignees of obligations to bring actions thereupon in their own names*," "*An act to prevent the importation of convicts into this commonwealth*," "*An act concerning the credentials of the Senators of this commonwealth, in Congress*," "*An act allowing travelling expenses to the judges of the general court*," "*An act against such as shall procure or commit wilful perjury, and*

against embracery," "An act to regulate the inspection of hemp," "An act to disable certain officers under the continental government, from holding offices under the authority of this commonwealth," "An act concerning the territory ceded by this commonwealth to the United States," "An act for safe keeping prisoners committed under the authority of the United States, into any of the jails of this commonwealth," "An act authorizing the Governor of this commonwealth, to convey certain lands to the United States for the purpose of building a light house," "An act concerning homicide by misfortune," "An act allowing a bill of exception to be sealed," "An act concerning election of members of General Assembly," "An act concerning the election of members of the General Assembly," "An act concerning the erection of the district of Kentucky into an independent state," "An act against those who counterfeit letters, or privy tokens to receive money or goods in other men's names," "An act against the embezzling of records," "An act concerning the benefit of clergy," "An act to provide against the appropriation of money by resolution of the two houses of assembly," "An act for the cession of ten miles square, or any lesser quantity, of territory within this state to the United States, in Congress assembled, for the permanent seat of the general government," "An act for the relief of creditors against fraudulent devises," "An act concerning awards," "An act concerning the southern boundaries of this state," and "An act for regulating the navigation of James river, above the falls of the said river."

II. THE said laws shall be published in order, as they were enacted, and the day upon which they respectively passed, shall be prefixed to each act.

III. WHERE any of the laws of this commonwealth express any sum or sums of money, in pounds, shillings and pence, the clerks of the several courts within this commonwealth, in all process, entries, and orders respecting the same, shall reduce such sum or sums of money into dollars and cents; and where any quantity or quantities of tobacco shall be expressed in the said laws, the clerk shall in like manner reduce the same into dollars and cents, at the rate of two dollars per hundred weight.

IV. AND be it further enacted, That the Executive shall cause a sufficient number of copies of the laws of this commonwealth, as revised and enacted by the present session of assembly, to be printed with a complete index and marginal notes, ten copies of which shall be delivered to the executive department, four copies to the clerk of each house of assembly, and one copy to each member of the present general assembly, to each of the judges of the superior courts, to every justice of the peace, and the clerk of every court within this commonwealth; the cost of which shall be paid out of the contingent fund. Those copies which shall be delivered to the executive, to the clerks of the two houses of assembly, to the clerks of courts, and to the judges of the superior courts, shall be well bound in calf skin, and the other copies shall be bound in boards.

V. THIS act shall commence and be in force, from and after the passing thereof.

To be published in order as enacted, and the day of passing prefixed. Sums of money and quantities of tobacco in the laws to be converted into dollars and cents, in all process, entries, &c.

Executive to cause the code to be printed, with an index and marginal notes. Copies, how to be disposed of.

How to be bound.

Commencement of this act.

CHAP. CL.

An Act declaring what Acts of the present Session shall be immediately in Force, and to suspend the Operation of all other Acts of the present Session, which are of a public and permanent Nature.

[Passed the 28th of December, 1792.]

I. **B**E it enacted by the General Assembly, That the operation of all the acts passed during the present session of Assembly, which are of a public and permanent nature, shall be and the same are hereby suspended until the first day of October, one thousand seven hundred and ninety-three.

II. *PROVIDED nevertheless*, That nothing herein contained shall be construed so as to suspend the operation of the following acts, *viz.* "An act for appointing electors to choose a President and Vice-President of the United States," "An act giving further time to the owners of entries on the western waters to survey the same," "An act for reducing into one act, the several acts concerning the court of appeals and special court of appeals," "An act for regulating the militia of this commonwealth," "An act for arranging the counties of this commonwealth into districts, to choose representatives to congress," "An act for appropriating the public revenue," "An act remitting certain militia fines," "An act giving further time to the owners of surveys to return the same into the land office," "An act for ascertaining the salaries to the officers of civil

Operation of all public and permanent acts of this session, suspended until 1st October, 1793.

Certain acts excepted.

government," "An act for establishing a bank in the town of *Alexandria*," "An act empowering the executive to advance to the public printer a sum of money for the purposes therein mentioned," "An act to amend the act, intituled, an act authorising the executive to direct the sheriffs to sell lands the property of this commonwealth," "An act for reducing into one, the several acts of assembly for the inspection of tobacco," "An act to reduce into one, the several acts concerning the recovery of debts due to the public; and the sale of lands for judgments on behalf of the commonwealth against public officers," "An act to reduce into one, the several acts concerning the county and other inferior courts of this commonwealth," "An act repealing the act, intituled, an act providing a sinking fund for the gradual redemption of the public debt," "An act reducing into one, the several acts concerning the establishment, jurisdiction, and powers of district courts," "An act to authorise the executive to remit damages in certain cases," "An act reducing into one, the several acts concerning the high court of chancery," "An act for imposing a public tax for the year one thousand seven hundred and ninety-two," "An act reducing into one, the several acts concerning the general court, and prescribing the manner of proceeding therein in certain cases," "An act for reducing into one, the several acts concerning executions, and for the relief of insolvent debtors," "An act authorising the general court to appoint a clerk *pro tempore*," "An act concerning coin," "An act reducing into one, the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees and county levies," "An act reducing into one, the several acts for regulating the inspection of flour and bread," "An act for establishing a bank in the city of *Richmond*," "An act to provide more effectually for the collection of the public taxes in certain cases," and, "An act declaring, what remedy the commonwealth shall have in certain cases."

Commencement of this Act.

III. THIS act shall commence and be in force, from and after the passing thereof.

1793.

General Assembly, begun and held at the Capitol, in the City of *Richmond*, on Monday, the 21st Day of October, in the Year of our Lord, 1793.

CHAP. CLI.

An Act for further continuing and amending the Act, intituled, An Act for reducing into one, the several Acts concerning Executions, and for the relief of Insolvent Debtors.

[Passed the 10th of December, 1793.†]

Writs of execution.

How to be issued and returned.

Fifteen days at least between teste and return.
From the general and district courts, when returnable.

I. **B**E it enacted by the General Assembly, That all persons who have, or shall hereafter recover any debt, damages or costs, by the judgment of any court of record within this commonwealth, may, at their election, prosecute writs of *fiery facias*, *elegit*, and *capias ad satisfaciendum*, within the year, for taking the goods, lands, or body of the person or persons against whom such judgment is obtained, in manner following: All such writs shall run in the name of the commonwealth, and bear teste by the clerks of the said courts respectively, shall be returnable to the first day of the next succeeding court, so that there be always at least fifteen days between the teste and return of each of the said writs: *Provided*, That executions may be issued from the general court, returnable to the second term of the said court, following the day of issuing the same; and that executions shall issue to any sheriff or coroner from the clerks of the district courts, and be returnable to the first day thereof. *And provided also*, That if the plaintiff in any county or other inferior court, shall desire an execution to issue, returnable at a further day, the clerk shall issue the same accordingly, so as the day of such return be upon a court day, within ninety days next after the teste thereof, and that the forms of the said several writs shall be as follows, *mutatis, mutandis*, to wit: a

† Amended, ch. 176. and 1795, ch. 2. Also by acts of 1798, pa. 10, whereby executions issued from District Courts may be returnable monthly. Amended further by act of Dec. Sess. 1801, ch. 12. (a) From 1798, except as to Dist. Courts.

A FIERI FACIAS IN DEBT.

THE commonwealth of *Virginia*, to the sheriff of _____ county, Forms of the writs.
greeting: We command you, that of the goods and chattels of *A. B.* late Against goods and chat-
in your bailiwick, you cause to be made the sum of _____, which *C. D.* tels.
lately in our _____ court hath recovered against him for debt; also the Debt.
sum of _____, which to the said *C. D.* in the same court were adjudged
for his damages, as well by reason of detaining the said debt, as for his costs
in that suit expended, whereof he is convicted, as appears to us of record, and
that you have the said _____ before the judges or justices (as the
case may be) of our said court, the _____ day of _____, to render to the
said *C. D.* of the debt and damages aforesaid. And have then there this writ.
Witness, &c."

THE SAME IN CASE, UPON A PROMISE:

AS before unto _____ "for his damages, which he sustained, as well Case, assumpsit.
by reason of his not performing a certain promise and assumption to the said
C. D. by the said *A. B.* lately made, as for his costs by him about his suit in this
behalf expended, &c."

IN TRESPASS.

AS before unto _____ "for damages, as well by occasion of a cer- Trespas.
tain trespass by the said *A. B.* to the said *C. D.* offered as for his costs, &c."

IN FOR THE DEFENDANT, SAY,

"FOR his costs about his defence in a certain action at the suit of the For the defendant.
said, &c."

IN COVENANT.

AS before unto _____ "for damages, &c. by occasion of a breach Covenant;
of a certain covenant between the said *A. B.* and *C. D.* lately made, &c."

THE FORM OF A WRIT OF ELEGIT.

"THE commonwealth, &c. greeting: Whereas *A. B.* at our Against lands and tenements.
court, &c. before our judges (or justices) held, hath recovered against *C. D.* the
sum of _____, which to the said plaintiff was adjudged for a certain
debt or damages, "as before" _____; and the said *A. B.* hath
chosen to have delivered to him all the goods and chattels of the said *C. D.* sav-
ing only the oxen and beasts of his plough, and also a moiety of all his lands and
tenements in your bailiwick, to have and to hold the goods and chattels afore-
said as his own proper goods, and the said moiety as his freehold to him and his
assigns, until he shall have levied thereof the debt and damages aforesaid:
Therefore we command you that you cause to be delivered, all the goods and
chattels of the said *C. D.* saving the oxen and beasts of his plough, and also a
moiety of all his lands and tenements in your bailiwick, whereof he at the day
of obtaining the said judgment was seized, or at any time afterwards, by rea-
sonable price and extent, to have and to hold the said goods and chattels, to
him the said *A. B.* as his own proper goods and chattels, and the said moiety
as his freehold, to him and his assigns, until he shall have levied thereof the debt
and damages aforesaid, and that you certify our said judges (or justices) under
your own seal, and the seals of those by whose oath you shall make this extent
and appraisement, how you execute this writ, the _____ day of _____.
And have then there this writ, &c." a

A CAPIAS AD SATISFACIENDUM.

"THE commonwealth, &c. greeting: We command you that you take *A. B.* Against the body.
late of _____, if he be found within your bailiwick, and him safely keep,
so that you have his body before our judges (or justices) of our _____ court,
&c. the _____ day of _____ to satisfy *C. D.* the sum of _____ which
the said *C. D.* hath recovered against him for debt, also, &c." as before.

IN CASE, TRESPASS, OR COVENANT, AS IN THE FIERI FACIAS.

WHICH said writs so issued, shall be executed by the sheriff or other officer Forms of the returns.
to whom the same shall be directed, and shall be returned according to the re-
spective forms hereafter mentioned, to wit:

THE RETURN OF A FIERI FACIAS.

"BY virtue of this writ to me directed, I have caused to be made the within Fieri facias executed.

mentioned sum of _____, of the goods and chattels of the within named *A. B.* which said sum of _____ before the judges (or justices) within mentioned, at the day and place within contained, I have ready, as that writ requires."

OR,

Where no goods.

"THE within named *A. B.* hath no goods or chattels within my bailiwick, whereof I can make the sum within mentioned"

OR,

Where part is levied.

"BY virtue, &c. I have caused to be made of the goods and chattels of the within named *A. B.* the sum of _____, which I have ready to render to the within named *C. D.* in part of the debt and damages within mentioned: And I do further certify, that the said *A. B.* hath no more goods and chattels within my bailiwick, whereof at present I can make the residue of the said debt and damages, as by the said writ is required."

RETURN OF A WRIT OF "ELEGIT."

Elegit executed.

"INQUISITION indented, taken at _____, in the county aforesaid, the day of _____, in the year of our Lord _____, before me *E. F.* sheriff in the county aforesaid, by virtue of a writ to me directed, and to this inquisition annexed, and by the oath of *A. B. C.* &c. good and lawful men of my bailiwick, who being charged and sworn upon their oath do say, that *A. B.* in the said writ to this inquisition annexed, named, the day of the caption of this inquisition, was possessed of the goods and chattels following, as of his own proper goods, to wit, _____ of the price of _____ which I, the said sheriff, have caused to be delivered to the same *C. D.* to hold to him as his own proper goods and chattels, in part of satisfaction of his debt and damages aforesaid, in the said writ mentioned: and further the said jurors upon their oath do say, that the said *A. B.* at the time of rendering the judgment aforesaid, was seized in his own *demise*, as of fee, of and in [here name the houses and lands] with the appurtenances of the annual value in all the issues beyond reprises of _____ pounds, _____ acres of which, or thereabouts, are a true and equal moiety of all and singular the lands, tenements, and hereditaments whatsoever, in the county aforesaid, of the said *A. B.* which said moiety, I the said sheriff, the day aforesaid, to *C. D.* in the said writ named, at a reasonable extent, have delivered to hold to him and his assigns, as his freehold, according to the form of the act in that case made and provided, until he shall have levied the residue of the debt and damages aforesaid, as the writ aforesaid requires; and further the said jurors upon their oath do say, that the said *A. B.* at the time of giving the judgment aforesaid, had not, nor at the day of taking this inquisition, hath any other or more goods and chattels, lands or tenements in the county aforesaid, to the knowledge of the jurors aforesaid. In testimony whereof, as well I the said sheriff, as the jurors aforesaid, to this inquisition have severally put our seals, the day, year, and place above mentioned."

RETURN OF A CAPIAS AD SATISFACIENDUM.

Capias executed.

"BY virtue of this writ to me directed, I have taken the within named *A. B.* whose body before the judges (or justices) within named, at the day and place within contained, I have ready to satisfy *C. D.* of the debt and damages within mentioned, as within to me is commanded."

OR,

"THE within named *A. B.* is not found within my bailiwick."

Not executed.

In what manner another execution may be issued where the first has not been served, or has not been satisfied.

II. WHEN any writ of execution shall issue, and the party at whose suit the same is issued, shall afterwards desire to take out another writ of execution at his own proper costs and charges, the clerk may issue the same, if the first writ be not returned and executed; and where, upon a *capias ad satisfaciendum* the sheriff shall return that the defendant is not found, the clerk may issue a *feri facias*; and if upon a *feri facias*, he shall return that the party hath no goods, or that only part of the debt is levied, in such case it shall be lawful to issue a *capias ad satisfaciendum* upon the same judgment; and where part of a debt shall be levied upon an *elegit*, a new *elegit* shall issue for the residue; and where *nihil* shall be returned upon any writ of *elegit*, a *capias ad satisfaciendum*, or *feri facias* may issue; and so *vice versa*; and where one judgment is obtained against several defendants, execution thereon shall issue as if it were against one defendant, and not otherwise. †

† Act concerning Fees, ch. 76, sec. 5, plaintiff limited to 10 years in suing out executions and in moving against sheriffs.

III. IF a tenant, by elegit be evicted of his title in the lands, tenements or hereditaments which he holds by virtue of any extent thereof, by judgment had against him, otherwise than by his own fraud or default, before satisfaction shall be made him for his debt, or damages, and costs, he shall and may have a writ of *scire facias* against the debtor, his heirs, executors, or administrators; and may thereafter sue out such other writ of execution for the residue of his debt or damages, and costs, as shall appear to remain unpaid, as if no execution had been theretofore issued.

Tenant by elegit, if evicted may have a *scire facias* against his debtor, and another execution for his debt, &c.

IV. WHEN any judgment or recognizance shall be extended, the same shall not be avoided or delayed by occasion that any part of the lands or tenements extendible are or shall be omitted out of such extent.

No extent to be avoided for omission of part of the lands extendible.

V. SAVING always to the party and parties whose lands shall be extended, his and their heirs, executors, and assigns, his and their remedy for contribution against such person and persons, whose lands are or shall be omitted out of such extent, from time to time.

Saving remedy of contribution.

VI. PROVIDED nevertheless, That this act or any thing therein contained, shall not be construed to give any extent or contribution against any heir or devisee within the age of twenty-one years, during such minority of such heir or devisee, for or in respect of any lands to such heir or devisee descended or devised, further or otherwise than might have been made before the making of this act.

Infants lands excepted.

VII. IF any person being in prison charged in execution, shall happen to die in execution, the party or parties at whose suit or to whom such person shall stand charged in execution, for any debt or damages recovered, his or their executors or administrators may after the death of the person so dying in execution, lawfully sue forth and have new execution against the lands and tenements, goods and chattels, or any of them, of the person so deceased.

If a debtor dies in prison, creditors may have new executions against his estate.

VIII. PROVIDED always, That this act shall not extend to give liberty to any person or persons, their executors or administrators, at whose suit any such party shall be and die in execution, to have or take any new execution, against any the lands, tenements or hereditaments of such party dying in execution, which shall at any time after the said judgment or judgments be by him sold in *bona fide*, for the payment of any of his creditors, at whose suit he shall be in execution, and the money paid or secured to be paid to any such creditors, with their privity, in discharge of his or their debts, or some part thereof.

Except his lands bona fide sold for the payment of his debts.

IX. IF any person taken in execution be delivered by privilege of either house of assembly, so soon as such privilege ceaseth, he shall return himself a prisoner in execution, or be liable to an escape. *a*

Persons in execution delivered by privilege of General Assembly to return in execution when that ceaseth.

X. WHERE judgment shall be obtained in any county court or other inferior court of record within this commonwealth, for any debt or damages, and the person against whom such judgment shall be obtained, shall remove himself or his effects, or shall reside out of the limits of the jurisdiction of such court, it shall be lawful for the clerk of the court, where judgment was given, at the request of the party for whom the same was rendered, to issue any writ of *fieri facias*, or *capias ad satisfaciendum*, or any other legal or proper writ of execution or attachment for the non-performance of a decree in chancery (as the case may require) in the form and under the teste herein before prescribed, and to direct the same to the sheriff of any county, or serjeant of any corporation within this commonwealth, where the defendant or debtor, or his goods shall be found; which said sheriff or other officer to whom the same shall be directed, is hereby empowered and required to serve and execute the same, and shall make return thereof to the court where the judgment was given, in the manner herein before prescribed and directed. *b*

Executions from a county court may be served in any other county.

XI. NO writ of *fieri facias*, or other writ of execution, shall bind the property of the goods against which such writ is sued forth, but from the time that such writ shall be delivered to the sheriff, under sheriff, coroner, or other officer to be executed; and for the better manifestation of the said time, such sheriff, coroner, or other officer, his deputy or agent, shall upon the receipt of any such writ, without fee for doing the same, endorse upon the back thereof, the day of the month and year when he received the same; and if two or more writs shall be delivered against the same person in the same day, that which was first delivered shall be first satisfied. If any sheriff, coroner, or other officer, to whom any execution shall be delivered, shall fail or neglect to en-

Property in goods bound from delivery of execution to the officer.

(a) 1785, ch. 55.

(b) 1748, ch. 8, sec. 20.

Time of delivery to be endorsed by the officer.

dorse thereon the day of the month and year when he received the same, every such person, for every such failure, shall be liable on a motion to be made before the court from whence the execution issued, to a penalty not exceeding fifteen *per centum* upon the amount of the said execution if it be for money or tobacco, and if it be for a specific thing, one hundred dollars, to the use of the party injured, upon giving ten days previous notice of such motion; and shall moreover be liable to the action of the party grieved for all damages arising from such failure.

Goods taken by execution when and how to be sold.

XII. ON all executions which have heretofore issued, or shall hereafter be issued, the sheriff or other officer having published notice of the time and place of sale, at the door of the courthouse of his county on some court day, and at some public place near the residence of the debtor, at least ten days before such sale, shall proceed to sell by auction the goods or chattels so taken, or so much thereof as shall be sufficient to satisfy the judgment or decree, for the best price that can be got for the same. *a*

Officer may accept security for goods until the day of sale.

XIII. *PROVIDED always*, That if the owner of such goods and chattels shall give sufficient security to such sheriff or officer, to have the same goods and chattels forthcoming at the day of sale, it shall be lawful for the sheriff or officer to take a bond from such debtor and securities, payable to the creditor, reciting the service of such execution, and the amount of the money or tobacco due thereon, and with condition to have the goods or chattels forthcoming at the day of sale appointed by such sheriff or officer, and shall thereupon suffer the said goods and chattels to remain in the possession, and at the risk of the debtor until that time; and if the owner of such goods and chattels, shall fail to deliver up the same, according to the condition of the bond, or pay the money or tobacco mentioned in the execution, such sheriff or officer shall return the bond to the office of the clerk of the court from whence the execution issued, to be there safely kept, and to have the force of a judgment; and thereupon it shall be lawful for the court, where such bond shall be lodged, upon motion of the person to whom the same is payable, his executors or administrators, to award execution for the money and tobacco therein mentioned, with interest thereon from the date of the bond, till payment and costs, provided the obligors, their executors or administrators, or such of them against whom execution is awarded, have ten days previous notice of such motion; and upon such execution, or on any execution awarded on any bond, which shall hereafter be given to replevy an estate taken by a former execution, the sheriff or officer shall not take any security either to have the goods forthcoming at the day of sale, or for the payment of the money at a future day; but shall levy the same immediately, and keep in his hands the goods and chattels taken thereupon, until he shall have sold sufficient thereof to raise the money and tobacco mentioned in the execution, or the same be otherwise satisfied. *b*

Proceedings on the bonds where the goods are not delivered.

No security to be taken on executions thereon, or on replevy bonds.

XIV. AND for the better direction of such officer, the clerk shall endorse upon any such execution, "that no security of any kind is to be taken."

Forthcoming bonds when to be returned.

XV. IF any sheriff or other officer shall fail to deliver or return any bond taken for the forth coming of property, by virtue of this act, within sixty days after the date thereof,* to the office of the clerk of the court, whence such execution issued, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner as is directed by law against a sheriff or coroner failing to return an execution. *c*

No security to be taken on executions against sheriffs, coroners, or constables.

XVI. WHEN execution shall issue against the estate of any sheriff, under sheriff, serjeant of a corporation, coroner or constable, or their securities, or the heirs, executors or administrators of either of them, upon a judgment obtained against such sheriff, under sheriff, serjeant of a corporation, coroner, or constable, or securities, or the heirs, executors or administrators of either of them, for money or tobacco received by such sheriff, under sheriff, serjeant of a corporation, coroner or constable, by virtue of any execution or process, levied or executed by him, or them, or for any money collected or received by them in any manner, as sheriffs, serjeants, coroners, or constables, no security for payment of the money or tobacco mentioned in such execution at a future day, or to have the goods forthcoming at the day of sale, shall be taken or received; but the officer taking such estate in execution, shall proceed immediately to the sale thereof, notwithstanding such security shall be tendered; and for the better direction of such officer, the clerk issuing such execution shall endorse thereon,

(a) 1787, ch. 7. (b) 1769, ch. 3. 1788, ch. 77. * Time altered by 3d sec. of act of '94, ch. 176. (c) 1791, ch. 3, sec. 4.

"that no security of any kind is to be taken." In like manner on all executions which may issue against any collector of the poor rates, his heirs, executors or administrators, or against any overseer or overseers of the poor, his, or their heirs, executors or administrators, on any judgment obtained, or which may hereafter be obtained against him or them, for, or on account of any money or tobacco which have or may hereafter come to his or their hands, levied for the support of the poor, the clerk shall endorse "no security to be taken." *a*

XVII. NO sheriff or other officer, to whom any writ of *feri facias* shall be directed, shall take in execution any slave or slaves, unless the debt and costs mentioned in such *feri facias* shall amount to the sum of thirty-three dollars, or two thousand pounds of tobacco; provided there be shewn to such sheriff or officer, by the defendant, or any other person, sufficient other goods or chattels of such defendant, within the bailiwick of such sheriff or officer, upon which he may levy the debt and costs mentioned in such *feri facias*. *b*

XVIII. WHERE any slave or slaves shall be taken in execution, and sold, the names of such slaves shall be certified on the back of such execution, and returned to and recorded among the records of the court where such execution shall issue. *c*

XIX. IF the goods taken by any sheriff or other officer, or any part thereof shall remain in his hands unsold, he shall make return accordingly, and thereupon the clerk of the court from whence the execution issued, shall and may, and he is hereby required, to issue a *venditioni exponas* to such sheriff or other officer directed, whereupon the like proceedings shall be had, as might and ought to have been had on the first execution; which writ of *venditioni exponas* shall be in the form following: *d*

THE commonwealth, &c. greeting: We command you that you expose to sale, those goods and chattels of A. B. to the value of , which, according to our command, you have taken, and which remain in your hands unsold, as you have certified to our judges (or justices) of our court, to satisfy C. D. the sum of , whereof in our said court he hath recovered execution against the said A. B. by virtue of a judgment in the said court; and that you have, &c."

XX. WHEN any sheriff or other officer shall serve any writ of execution on slaves, horses, or any live stock, and the same shall not be immediately replevied or restored to the debtor, it shall and may be lawful for such officers, and they are hereby required, to provide sufficient sustenance for the support of such slaves or live stock, until such slaves or stock be sold, or otherwise legally discharged from such execution, and upon the return of any execution, the court may and shall upon the motion of the officer serving the same, settle and adjust what such officer shall be allowed for his expenses incurred by supporting such slaves or stock; and the said officers shall and may be allowed to retain the same out of the money arising from the sale of the said slaves or stock. *e*

XXI. IF any sheriff shall levy an execution on property, and a doubt shall arise, whether the right of such property is in the debtor or not, such sheriff may apply to the plaintiff, his attorney, or agent, for his bond with good security, for indemnification for the sale of the property seized, which, if the plaintiff, his attorney, or agent refuses or fails to do within a reasonable time after such application, the sheriff or other officer shall be justified in delivering up such property to the party from whose possession the property was taken.

XXII. IF the goods or other estate taken in execution, cannot be sold for three-fourths of their value at least, in the opinion of the persons hereafter directed to be appointed for that purpose, it shall and may be lawful for the debtor or debtors, or any of them, to enter into bond with sufficient security, to be approved by the persons aforesaid, to pay the money or tobacco for which execution was so served, and all costs, with lawful interest for the same to such creditor, within twelve months: And on such bond being given, the sheriff or other officer shall restore to such debtor, the goods or estate so taken; and where no such bond and security shall be offered, by the debtor, or any person for him, and the goods or other estate taken in execution, cannot in the opinion of the persons aforesaid, be sold for three-fourths of their value at least, the sheriff or other officer, shall set up and sell the same for money or tobacco, (as the case may be) to be paid at the end of twelve months, and shall take bond of the buyer or buyers, with one or more sufficient securities to pay the same accordingly, with interest, to such creditor. *f*

(a) 10, Geo. 3, ch. 3, sec. 6. 1791, ch. 20, sec. 6. (b) 1748, ch. 8, sec. 16. (c) 1764, ch. 6, sec. 7. (d) 1748, ch. 8, sec. 9. 1791, ch. 3, sec. 6. (e) 1772, ch. 6, sec. 7. (f) Oct. 87, ch. 7, sec. 3.

Collectors of the poor rates.
Overseers of the poor.

In what cases slaves may not be seized.

Names of slaves taken in execution to be endorsed thereon.

When a writ of *venditioni exponas* shall be issued.

Form of the writ:

Slaves and live stock taken in execution to be supported by the officer.

Expense thereof to be paid out of the proceeds of the sales.

When the officer may demand of the plaintiff bond of indemnity for selling.

Where goods cannot be sold for three-fourths of their value, the debtor may give bond and security to pay the debt within twelve months.

Or they may be sold on 12 months credit.

Tenor of the bonds,

XXIII. ALL and every bond or bonds so taken in pursuance of this act, shall mention that the same was or were entered into, for goods or other estate taken in execution, and returned to the debtor, or sold to the obligor (as the case may be) and shall have the force of judgments, and shall also be assignable; and such sheriff or other officer taking such bond, shall deliver the same to the creditor, or his attorney, or return it to the office of the clerk of the court, from whence such execution issued, there to be safely kept, until demanded by the creditor, or his attorney.* And if the money or tobacco shall not be paid according to the condition of any such bond, it shall be lawful for the creditor or his assignee, or the attorney of such creditor or assignee, to lodge the same, with an affidavit, that the money or tobacco for which such bond was given, or part thereof, is still due, with the clerk of the court from whence the execution issued; and such clerk shall and may thereupon issue an execution for so much as shall appear from the said bond and affidavit to be still due; and upon such execution, the sheriff or other officer shall not take any security, for the payment of the money or tobacco at a future day, but shall levy the same immediately, and sell the property on which the execution shall be so levied, for the best price that can be had for the same.†

Proceedings thereon:

Where the obligors or obligees die.

XXIV. IF any obligor or obligors, obligee or obligees, in any twelve months replevy bond taken on any execution under this act, or assignee of any such obligee, (as the case may be) shall die before such bond shall be fully paid, it shall and may be lawful for the clerk of any court within this commonwealth, upon the application and oath of the executors or administrators of any such obligee or assignee, that the amount of such bond is not discharged, to issue a writ of execution against every such obligor or obligors, his or their executors or administrators, and to endorse thereon "no security is to be taken." Any law to the contrary notwithstanding. *a*

Executions thereon, issued after payment of the money may be quashed.

XXV. *PROVIDED*, That if on return of such execution, the debtor can prove the payment of the money for which such execution was levied, either to the assignee or original obligee, before notice of such assignment (as the case may be) it shall and may be lawful for the court to quash such execution, or give such other judgment therein as to them shall seem right, and the person in whose names such execution issued, shall moreover be liable to the action of such debtor for damages. And for the better direction of such sheriff or other officer, the clerk shall endorse upon such execution, that "no security shall be taken;" *Provided*, That nothing in this act contained, shall be construed to extend the right of giving security for payment of the money or tobacco mentioned in such execution at a future day, or to have the goods forthcoming at the day of sale, to the defendant or defendants, in any judgment or execution not exceeding the sum of five dollars; or to any execution against a sheriff, coroner, public collector, or other person legally authorized to receive any part of the public revenue, or their securities; or to any execution against any such officer or his securities, for money received by him under an execution or other process; or for any money or tobacco collected or received by him or them, in any manner as sheriffs or public collectors; nor to attorneys receiving the money of their clients; nor to securities under an act, intituled, "*An act to empower securities to recover damages in a summary way.*" *b*

In what cases such bonds shall not be taken.

Separate bonds for the surplus to be taken to the debtor.

XXVI. WHERESOEVER on a sale under execution upon twelve months credit, the amount of such sale shall exceed the principal, interest, and costs, the sheriff or coroner (as the case may be) shall take a separate bond with sufficient security, from the buyer or buyers, for the payment of such excess or surplus to the debtor, with legal interest at the end of twelve months, from the date thereof, and it shall be expressed in the said bond, that it was given for a surplus or excess as aforesaid; and the said sheriff or coroner (as the case may be) shall deliver every bond so taken to the debtor, his agent, attorney, or other legal representative, or return it to the clerk's office; and it shall have the force of a judgment, be assignable, and in all things concerning the same, be proceeded on in like manner as is above prescribed, in case of bonds given to a creditor. And if the sheriff or coroner (as the case may be) shall fail to deliver or return as aforesaid, any bond so taken, within thirty days from the date thereof, he shall be liable to the same penalty for every month of such failure, to be reco-

* No penalty in this act for failure. Fine imposed by 3d sec. of act of 1791, ch. 176, of this book. † See ch. 175 sec. 7. (a) 1791, ch. 3, sec. 8. (b) 1763, sec. 6, and 1787, ch. 7, sec. 4.

vered in the same manner as is directed by law against a sheriff or coroner failing to return an execution. *a*

XXVII. THE court of every county and corporation within this commonwealth, shall appoint nine persons to act as judges of the value of property, and the sufficiency of securities that may be offered under this act; and no sale under execution shall be made, but in the presence of at least three of the said persons, except in the cases herein after mentioned. *Provided always*, That in any case where the creditor, his agent, or attorney shall be dissatisfied with the sufficiency of the security admitted by such valuers, it shall be lawful for such creditor to appeal to the court to be held for the county or corporation within three months after the return day of the said execution, thereupon giving notice to the debtor or his attorney, and if such court shall be of opinion, that the security so admitted was insufficient, the execution upon which such security was admitted, shall be deemed and taken as a lien upon the goods and chattels of such debtor, and shall not be discharged but upon payment of the debt and costs, or tender of other sufficient security, satisfactory to the court; and moreover the bond and security given by such debtor, shall remain valid until such counter-security be given. There shall be paid by the creditor, his agent, attorney or other representative, to each of the valuers appointed by virtue of this act, sixty-seven cents for each day's attendance at any sale, and no more, let the number of executions be what it may, which shall be taxed in the bill of costs where there is but one execution, and where there shall be more than one, in the bill of costs on each execution, proportioned to the amount thereof, and reimbursed to him accordingly; and such attendance shall not be taxed for more than three valuers in any case. And where any property shall be returned to the debtor, or sold on twelve months credit under this act, such persons shall give the sheriff or other officer a certificate, that in their opinions, such property would not sell for three-fourths of its real value, and that the security taken was sufficient; and such certificate shall be returned with the execution by the sheriff, and shall be a full indemnification for him therein. Every person appointed by a court to judge of the value of property taken in execution, and of the sufficiency of securities offered agreeably to the directions of this act, shall before he proceeds to act under such appointment, take an oath before the court of the county or corporation, or a magistrate thereof, "that he will truly and impartially execute the trust reposed in him by this act." *b*

XXVIII. WHERE any bond directed or permitted to be given by this act, shall be assigned, and execution issued thereon against the original obligor or obligors, and on such execution there shall be a return by the sheriff or other officer, that there were no goods, or not sufficient goods of the obligor or obligors, to make the debt and costs, it shall be lawful for the clerk who issued such execution, to issue a second execution against the assignor or assignors of such bond, for the debt mentioned therein, or such part thereof as shall appear to be still due, on which execution there shall be similar proceedings to those on an execution against the original obligors. *†*

XXIX. WHERE any writ of *capias ad satisfaciendum* has been or shall be served on any debtor, it shall be lawful for such debtor to tender to the sheriff or other officer serving the same, slaves or personal property to the value of the debt and costs, for which such execution has issued, or may hereafter issue, which property the said sheriff or other officer shall receive and proceed to sell in like manner as is herein directed, in the case of goods taken in execution upon a writ of *feri facias*, and shall thereupon discharge such debtor out of custody. *Provided always*, that if such property so tendered, shall not be sufficient to satisfy the debt or damages, and costs, or shall be under any lien or incumbrance, so as that the whole cannot be sold, a new *capias ad satisfaciendum*, or *feri facias*, at the option of the plaintiff, shall issue for any balance, and the clerk of the court from which such execution originally issued, shall upon the return of the sheriff of the insufficiency or incumbrance as aforesaid, issue a new *capias ad satisfaciendum*, or *feri facias*, if required. But where such property shall have been under any incumbrance, the debtor shall not be at liberty to tender slaves or personal estate on a second *capias ad satisfaciendum* being served, or in case of a *feri facias* issued in consequence of such return, to avail himself of the privileges of this act. *c*

Commissioners to be appointed in each county to value property under execution and to judge of the sufficiency of securities.

Assignors of bonds given in pursuance of this act, responsible if the obligors are insufficient.

Debtors in execution may tender goods to the officer.

(a) 1788, ch. 77. (b) 1787, ch. 7, sec. 5, and 1788, ch. 77, sec. 8. *†* By act of 1795, pa. 11, remedy given assignors v. obligors. (c) 1787, ch. 7. 1788, ch. 77, sec. 5.

Nothing in this act to extend to distresses for rents.

Commissioners to be amenable to the county courts.

Vacancies how to be supplied.

To be summoned to attend sales.

Method of proceeding when they do not attend.

In what cases they shall not be summoned, unless the defendants require it.

Valuation of property to be made known to any person desiring it. Sheriff's fee for taking the bond; commissions.

No principal to be received a security.

Surplus money to be paid to the debtor.

Money levied by execution to be restored to the defendant obtaining an injunction to the judgment.

XXX. NOTHING in this act contained shall be construed to extend to any proceedings that may be had in consequence of any distress made, or to be made, for any rent reserved and due, or which may hereafter become due upon any demise, lease or contract, whatsoever. *a*

XXXI. THE valuers shall be amenable to their respective county or corporation courts, and at the discretion of such courts may be deprived of their office, for neglect of duty or malfeasance therein; and upon the death, resignation, or removal from office, of any such valuer, the vacancy shall be supplied by new appointment of the county or corporation court in which it shall happen.

XXXII. WHEN the sheriff shall under any execution have fixed the time and place for the sale of the property taken under such execution, he shall summon three of the commissioners appointed to value the property, and ascertain the sufficiency of securities, to attend at the time and place of such sale; if only two of the said commissioners attend, they shall after the hour of two o'clock, choose one of the by-standers to assist them in such valuation; if only one of the said commissioners shall attend, he shall at the same time, and in the same manner, choose one of the bystanders, and they shall together, choose a third to value such property as aforesaid; if neither of the said commissioners shall attend, the sale shall be postponed until another day, which shall not be longer than ten days, when the same proceedings shall be had as are directed to take place on the day first appointed for the sale. The sheriff shall administer the same oaths to the persons chosen by the commissioners, as are directed by this act, to be administered to the commissioners by the county or corporation courts. *Provided always*, that the said commissioners shall not be summoned upon any *fieri facias*, where the debt, or damages and costs, shall not exceed thirty-three dollars, unless the defendant, his agent, attorney, or other legal representative, shall require the same; and where the commissioners shall not be summoned, and the debt or damages shall not exceed the sum aforesaid, the sale shall proceed, and the sheriff or other officer possess and exercise the same power of valuation, as the commissioners would have possessed and exercised, had they been summoned, but shall receive no reward for such valuation. *b*

XXXIII. THE valuers shall make known in every case to any person requiring the same, before or at the sale, the valuation by them made of the goods or other estate taken in execution; the sheriff or coroner, (as the case may be) shall be allowed for taking the bonds to the creditor, sixty-two cents, and no more; for proceeding to sell, if the property be actually sold or the debt paid, the commission of five *per centum* on the first three hundred dollars, or ten thousand pounds of tobacco, and two *per centum* upon all sums above that, and one half of such commission, where he shall have proceeded to sale, and the defendant shall have replevied; and no other commission, fee or reward, shall be allowed upon any execution, except for the expense of removing and keeping the property taken.

XXXIV. UPON actual sale of any property under this act, no principal debtor shall become the security.

XXXV. WHERESOEVER on a sale for cash or tobacco, made under any execution, the amount of such sale shall exceed the principal, interest and costs, the sheriff or other officer shall pay such excess or surplus to the debtor, his executors, administrators or agent; and if any sheriff or other officer, shall fail or refuse to pay such surplus or excess when required, such sheriff or other officer, his or their security, or securities, his or their executors or administrators, shall each and every of them, be liable to the like penalty and judgment in favor of the said debtor, as is prescribed and directed by law in favor of the plaintiff against the sheriff, for not paying the principal, interest and costs, levied on an execution. *c*

XXXVI. WHEN any sheriff, or other officer under any execution, shall receive the whole, or any part of the money or tobacco for which the said execution was issued, and the person against whom such execution may have issued, his executors or administrators, shall obtain an injunction to such execution, or for any part of the money or tobacco mentioned therein, before the money or tobacco received by such sheriff or officer is paid to the plaintiff, his agent or attorney, or his executors or administrators; in every such case, the sheriff or other officer, his executors or administrators, shall repay the person or per-

sons against whom such execution issued, his or their executors, administrators or agent, the money or tobacco so received, or such part thereof as may be enjoined; and if any sheriff, or other officer, his or their executors, or administrators, shall fail or refuse when required, to pay such sum of money or tobacco so received and enjoined, to the person having a right to demand the same, such sheriff or other officer, and their securities, his, and their executors and administrators, and every of them, shall be liable to the like penalty and judgment, in favor of the person, his executors or administrators, by whom the said injunction is obtained, as is directed by law in favor of the plaintiff, against the sheriff, for not paying money or tobacco levied on an execution. *a*

XXXVII. IF any person or persons taken or charged in execution, shall enter into bond with good and sufficient securities, under a reasonable penalty, upon condition that he or they shall not depart, or go out of the rules or bounds of the prison to which he or they be committed, it shall be lawful for the sheriff or officer in whose custody such prisoner shall be, to permit him or them to go out of the prison, and return at their pleasure. *b*

When prisoners may have liberty of the rules.

XXXVIII. AND for the relief of insolvent debtors, who shall be taken in execution, and to prevent the long imprisonment of unfortunate people, which can be of no benefit, but rather a disadvantage to their creditors: *Be it further enacted*, that if any person shall hereafter be taken, or charged in execution, in any suit commenced, or prosecuted in any court of record within this commonwealth, it shall be lawful for any judge or justice of the said court, or of the court of that county or corporation to whose jail such person shall be committed, by warrant under his hand and seal, to command the jailor or keeper of the said prison, to bring before the said court if sitting, or if not sitting, in case it be a superior court, before any two judges of the said court, at a certain time and place therein to be appointed, and if an inferior court, before any two justices of the said court, at their county courthouse, likewise on a certain day to be appointed in such warrant, the body or bodies of such person or persons so in prison as aforesaid, together with a list of the several executions, with which he or she shall stand charged in the said jail, which warrant such jailor is hereby required to obey; and reasonable notice thereof shall be given to the party or parties, his or their executors, administrators, or agents, at whose suit such prisoner or prisoners shall be in execution. And every such prisoner coming before the said court, judges or justices, as the case shall be, shall subscribe and deliver in a schedule of his whole estate, and make oath and swear to the effect following, that is to say: *c*

Method of insolvent debtors discharged

I, A. B. do in the presence of Almighty God, solemnly swear or affirm, (as the case may be) that the schedule now delivered, and by me subscribed, doth contain to the best of my knowledge and remembrance, a full, just, true, and perfect account and discovery of all the estate, goods and effects unto me any ways belonging, and such debts as are to me owing, or to any person in trust for me; and of all securities and contracts whereby any money may hereafter become payable, or any benefit or advantage accrue to me, or to my use, or to any other person or persons in trust for me, and that I, or any other person or persons in trust for me, have not land, money, stock, or any other estate, real or personal, in possession, reversion, or remainder, of the value of the debt or debts with which I am charged in execution; and that I have not directly or indirectly sold, lessened, or otherwise disposed of in trust, or concealed all, or any part of my lands, money, goods, stock, debts, securities, contracts, or estate, whereby to secure the same, or to receive or expect any profit or advantage therefrom; or to defraud or deceive any creditor or creditors to whom I am indebted, in any wise howsoever. So help me GOD. *d*

Prisoners oath:

XXXIX. WHICH schedule being so subscribed in open court, if taken in court, and if not, in the presence of two judges or justices, shall be returned to the clerk of the court, there to remain for the better information of the creditors; and after delivering in such schedule, and taking such oath, such prisoner shall be discharged by warrant from such court, or from two judges or justices, (as the case may be) which warrant shall be sufficient to indemnify such sheriff or officer against any escape or escapes, action or actions whatsoever, which shall, or may be brought or prosecuted against him or them by reason thereof. And if any action should be commenced against any sheriff or officer

Prisoners discharge. But creditors may afterwards have executions against his estate.

(a) 1791, ch. 3, sec. 3. (b) 1748, ch. 8, sec. 21, 24. (c) 1769, ch. 3, sec. 7. 1753, ch. 1, sec. 31. This clause altered by 2d sec. of act of 1794, ch. 176. See ch. 176, sec. 13. Oath of an insolvent may be administered by two justices in any case. (d) 1748, ch. 8, sec. 24.

No insolvent debtor to be imprisoned on account of any judgment obtained before he took the oath, unless a *capias* be issued by order of the court.

Debtors estate how to be disposed of.

His debts and effects how to be recovered.

Sheriff to retain his expenses out of the debtor's estate.

for performing his duty in pursuance of this act, he may plead the general issue, and give this act in evidence. *Provided always*, that notwithstanding such discharge, it shall be lawful for any creditor or creditors, by judgment at any time afterwards, to sue out a writ of *scire facias*, to have execution against any lands or tenements, goods or chattels, which such insolvent person shall thereafter acquire or be possessed of. But no person delivering in such schedule, and having taken the said oath, shall again be imprisoned on account of any judgment which shall have been obtained against him, previous to the time of taking such oath, unless by virtue of a *capias ad satisfaciendum*, directed to issue by the court in which the said judgment shall have been rendered. *a*

XL. ALL the estate which shall be contained in such schedule, and any other estate which may be discovered to belong to the prisoner, for such interest therein, as such prisoner hath, and may lawfully depart withal, shall be vested in the sheriff of the county, wherein such lands, tenements, goods or chattels shall lie or be found; * and such sheriff is hereby authorized, empowered and required, within sixty days after the taking the said oath, ten days previous notice of the time and place of sale being given, to sell and convey the same to any person or persons whatsoever, for the best price that can be got for the same, and the money arising from such sale, shall be by such sheriff or officer paid to the creditor or creditors, at whose suit such prisoner or prisoners shall be imprisoned, saving to every such prisoner, his or her necessary apparel and utensils of trade. And if any sheriff or other officer shall fail to pay the money arising from such sale according to law, he shall be liable to the same penalty, to be recovered in the same manner, and by the same persons, as if the said money had been levied by a *fieri facias*. *b*

XLI. WHEN any insolvent debtor shall be discharged pursuant to this act, and the schedule subscribed and delivered in by such prisoner, shall contain articles of money or tobacco, due to such prisoner, or of goods, chattels, or estates belonging to him, and in the possession of any other, in that case the clerk of the court, with whom such schedule is directed to remain, shall immediately issue a summons against each of the persons named as debtors in the said schedule, and against such others as are therein said to have possession of any goods, chattels, or estates of the property of the prisoner, reciting the sum of money, or the quantity of tobacco he or she is charged with, or the particular goods, chattels or estates said to be in his possession, and requiring him or her to appear at the next court, and to declare on oath, whether the said money or tobacco, or any part thereof, be really due to such prisoner, or whether such goods, chattels, or estate be really in his or her possession, and are the property of such prisoner; and if the person so summoned, shall fail to attend according to such summons, or to shew good cause for his non-attendance, it shall be lawful for the court to enter judgment against every such person, for the money, tobacco, goods, chattels, or estates, in such schedule mentioned, together with costs of suit, a lawyer's fee excepted; and if any such person so summoned, shall appear and be sworn, judgment shall be entered for so much of the money, tobacco, goods, chattels or estates, as he or she shall acknowledge to be due, or to be of the property of such prisoner, and in his possession, with costs as aforesaid; which judgment shall be entered in the name of the sheriff, who may thereupon proceed to levy the executions, as in other cases, and to dispose of the money, tobacco, goods, chattels or estates so recovered, in the same manner as the estate contained in the schedule, is hereby directed to be disposed of. *c*

XLII. *PROVIDED always*, That where any such garnishee shall not acknowledge the whole money or tobacco to be due, or all the goods, chattels or estates mentioned in the schedule, to be of the property of the prisoner, and in his possession, the sheriff or such prisoner, at any time after, unless barred by any of the acts, limiting the time for the commencement of actions, shall be at liberty to claim the residue by legal process, and the former judgment as to such garnishee, shall be no further bar in such process, than for so much money or tobacco, or such goods, chattels and estates as the garnishee is thereby ordered to pay or deliver.

XLIII. EVERY sheriff shall be allowed to retain out of the effects of such insolvent debtor, before the distribution thereof, all reasonable expenses in re-

(a) 1769, ch. 3, sec. 7. 1748, ch. 8, sec. 26. * See acts of 1798, ch. 13, sec. 8, which directs that the personal estate contained in the schedule shall be transferred by the debtor, and his real estate conveyed before his discharge. (b) 1769, ch. 3, sec. 9. 1748, ch. 8, sec. 26. (c) 1769, ch. 3, sec. 10.

covering such money, tobacco, goods, chattels and estates as aforesaid, including such a fee to a lawyer for the proceeding against the garnishee, as shall be judged reasonable by the court, and if such effects be not sufficient, he shall be reimbursed such expenses by the creditor or creditors, if more than one, in proportion to their demands.

XLIV. WHERE such insolvent person shall not be able to satisfy and pay his ordinary prison fees, the sheriff or jailor may demand and receive of the party or parties, at whose suit such insolvent person shall be imprisoned, all such fees as shall become due until such creditor shall agree to release such prisoner; and if the creditor upon notice given to him or her, his or her attorney, or agent, shall refuse to give security to the sheriff or jailor, for the payment of such prison fees, or shall fail to pay the same when demanded, such sheriff or jailor shall discharge such debtor out of prison. *a*

Insolvent debtors prison fees to be paid by the creditor.

XLV. PROVIDED nevertheless, That such insolvent prisoner shall be afterwards liable to the action of the creditor to recover such fees, and such creditor shall and may, notwithstanding his consent to the releasing such prisoner, at any time afterwards, sue out a *scire facias* to have a new execution against the lands and tenements, goods and chattels of such prisoner, in case he or she shall afterwards become possessed of any. *b*

But may afterwards be recovered of the debtors.

XLVI. WHEN any debtor is in custody on several executions, it shall not be lawful for such debtor to demand any more or other dieting, than if he was in custody on one execution only; nor shall any sheriff or jailor demand or receive more than the rate fixed by law, in case of a debtor confined on one execution only, which shall be paid by the creditor, at whose suit such debtor was first taken. *c*

Prison fees to be paid by the creditor, whose execution is first served.

XLVII. AN execution appearing to be duly served in other respects shall be deemed good, although it be not directed to any sheriff. *d*

Execution duly served, valid, although not directed to any sheriff. Distringas in detinuc may be superseded as to the specific thing.

XLVIII. IF a *distringas* issue in detinuc, the court for good cause shewn, may direct it to be superseded, so far as it relates to the specific thing, and to be executed for the alternative price or value only, if fixed in the judgment, or if the same shall afterwards be fixed by a writ of inquiry. *d*

XLIX. IF a replevy or forthcoming bond be quashed as faulty, the sheriff taking the same, shall be at all times liable for damages to the party injured, or his representative. *d* †

Sheriff liable when a replevy or forthcoming bond is quashed, as faulty. Penalty on sheriff for failing to return an execution.

L. † AND whereas doubts have arisen in what manner judgment should be rendered against any sheriff, coroner, or serjeant of a corporation, who shall fail to return an execution to the office from whence it issued, on or before the return day thereof; *Be it enacted*, that where any writ of execution, or attachment for not performing a decree in chancery, shall come into the possession of any sheriff, coroner, or serjeant of a corporation, and he shall fail to return the same to the office from whence it was issued, on or before the return day thereof, it shall be lawful for the court, ten days previous notice being given, upon the motion of the party injured, to fine such sheriff, coroner, or serjeant of a corporation at their discretion, in any sum not exceeding five dollars per month, for every hundred dollars contained in the judgment or decree, on which the execution or attachment, so by him detained, was founded, and so in proportion for any greater or lesser sum, counting the aforesaid months from the return day of the execution or attachment, to the day of rendering judgment for the said fine. *e*

LI. IF any sheriff, under sheriff, or other officer, shall make return upon any writ of *fieri facias* or *venitioni exponas*, that he hath levied the debt, damages or costs, as in such writ is required, or any part thereof, and shall not immediately pay the same to the party, to whom the same is payable, or his attorney, or shall return upon any writ of *capias ad satisfaciendum*, or attachment, for not performing a decree in chancery for payment of any sum of money, or tobacco, that he hath taken the body or bodies of the defendant or defendants, and hath the same ready to satisfy the money and tobacco in such writ mentioned, and shall have actually received such money or tobacco of the defendant or defendants, or have suffered him, her or them to escape, with the consent

Method of proceeding against sheriff failing to pay money levied by executions.

(a) 1772, ch. 13, sec. 1. 1748, ch. 8, sec. 28. (b) 1769, ch. 3, sec. 8. (c) 1789, ch. 13, sec. 38. (d) 1788, ch. 67, sec. 75, 76, 78. † See ch. 176, sec. 6, (other remedy granted.) † See ch. 176, sec. 8, like remedy granted against other officers, and also against executors or administrators, and securities of either. (e) 1791, ch. 3, sec. 3.

of such sheriff, under sheriff, or officer, and shall not immediately pay such money or tobacco to the party to whom the same is payable, or his attorney, then, or in either of the said cases, it shall and may be lawful for the creditor, at whose suit such writ of *feri facias*, *venditioni exponas*, *capias ad satisfaciendum*, or attachment shall issue, upon a motion made in the next succeeding general court, or other court from whence such writ shall issue, to demand judgment against such sheriff, officer, or under sheriff, or securities of such under sheriff, for the money or tobacco mentioned in such writ, or so much as shall be returned levied on such writs of *feri facias* or *venditioni exponas*, with interest thereon, at the rate of fifteen *per centum per annum*, from the return day of the execution, until the judgment shall be discharged; and such court is hereby authorized and required to give judgment accordingly, and to award execution thereon; provided such sheriff or officer have ten days previous notice of such motion. *a*

Creditors to appoint agents in the counties in which executions are served.

LII. AND whereas it is unreasonable that sheriffs should be obliged to go out of their counties to give notice to creditors at whose suit any person may be in the custody of such sheriff, or to pay money levied by execution: *Be it therefore enacted*, that where any execution shall be delivered to the sheriff of any other county, than that where any creditor resides, such creditor shall name some person in the county where the execution is to be levied, to be his, her, or their agent, for the particular purpose of receiving the money on such execution, and for giving to, and receiving from the sheriff, any notices which may be necessary relating thereto, and payments made, and notices given to such agent, shall be as effectual, as if made or given to the creditor. And if any creditor shall fail to appoint such agent, no judgment shall be entered against the sheriff for non-payment of the money and tobacco mentioned in such execution, unless a demand thereof shall have been first made of such sheriff in his county by the creditor, or some other person having a written order from him: Nor in case of failure in appointing such agent, shall the sheriff or prisoner be obliged to give notice previous to the discharge of such prisoner, either for want of security for his prison fees, or upon his taking the oath of an insolvent debtor. But such prisoner shall be discharged in those cases respectively, without any notice to be given to the creditor so failing. *b*

Executions may be issued on decrees in chancery.

LIII. AFTER obtaining a final decree for lands, slaves, or money, or things of a specific nature, in any court having chancery jurisdiction, the clerk of such court shall upon the request of the party obtaining such decree, issue any writ of execution, either a *feri facias*, *capias ad satisfaciendum*, *habere facias possessionem*, or any judicial process which may now issue from any court of common law, according to the nature of the case, for carrying the said decree into effect; which writ shall issue in the name of the commonwealth, and bear teste and be signed by the clerk of the court; and all process so issued, shall be executed and returned to the clerk's office from which the same issued, from term to term, on the return days thereof, by the officer or officers to whom the same shall be directed, and shall have the same operation, and possess the same force to all intents and purposes, as similar process, issued upon judgments at common law. The officer or officers to whom any such process is directed, shall be subject to the like penalties for misconduct or neglect, and the court shall exercise in this and in all cases relating to such process, the same powers, as if the said process had issued upon a judgment obtained at common law. But nothing herein contained, shall prohibit any party from proceeding to carry any order or decree in chancery into execution, in any manner, in which he might avail himself before the passing of this act. *c*

Goods on leased premises not liable to execution until the rent in arrears is paid or tendered.

LIV. NO goods or chattels whatsoever, lying or being in or upon any messuage, lands or tenements, which are or shall be leased for life or lives, term of years, or will, or otherwise, shall at any time hereafter be liable to be taken by virtue of any writ of execution, or on any pretence whatsoever, unless the party so taking the same, shall, before removal of the goods from off such premises, pay or tender to the landlord, or lessor thereof, or his agent, all the money or tobacco due for the rent of the said premises, at the time of taking such goods or chattels in execution. *Provided nevertheless*, that such rent arrears do not amount to more than one year's rent, and if more be due, then the party suing out such execution, paying or tendering to such landlord, or his agent, one

Twelve.

(a) 175, ch. 1, sec. 3, 6. 1763, ch. 5, sec. 1. See ch. 80, sec. 25. 1789, ch. 13, sec. 37. (b) 1760, ch. 3, sec. 13. See ch. 80, sec. 34. (c) 1787, ch. 10, sec. 1.

year's rent, may proceed to execute his judgment; and the sheriff or officer serving the same, is hereby empowered and required to levy and pay to the plaintiff, as well the money or tobacco so paid for rent as the execution money. *a*

LV. ALL acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed: *Provided always*, that nothing in this act, shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been vested, or incurred prior to the commencement of this act. Repealing clause.

LVI. *PROVIDED also*, That all executions issued under any former act, shall go on to be satisfied, or replevied as such former act directs; and all twelve months or replevy bonds taken, or which shall be taken under any former act, shall have executions issued thereon, in like manner as is directed in cases of twelve months, or replevy bonds to be taken under this act.

LVII. THIS act shall commence and be in force, from and after the passing thereof, until the first day of *January*, one thousand seven hundred and ninety-five. Commencement & duration of this act.

CHAP. CLII.

An Act to amend the Act for regulating the Militia of this Commonwealth,
[Passed the 2d of December, 1793.†]

I. **W**HEREAS it is represented to this present General Assembly, that many county and corporation courts in this commonwealth, have failed to recommend proper persons for officering the militia of the several regiments, battalions and companies within their respective jurisdictions, according to the directions of the act, intituled, "*An act for regulating the militia of this commonwealth*," and it is expedient that the said act should be carried into full effect: Preamble.

II. *BE it therefore enacted*, That the several county and corporation courts, shall, and they are hereby required, on or before their respective courts, to be held in the month of *May* next, recommend to the governor and council the officers necessary to complete the regiments, battalions and companies within their respective jurisdictions, pursuant to the directions of the above recited act, recommending the said officers according to their grades and seniority within their respective companies; and in case of failure herein, each and every justice so failing, shall forfeit and pay ten dollars, to be recovered as other penalties incurred by law, for failing to discharge the duties of their respective offices; one moiety whereof shall be applied to the use of the commonwealth, in aid of the contingent fund, and the other to the use of the informant or person suing for the same. County and corporation courts to recommend officers.

III. *AND be it further enacted*, That all vacancies hereafter happening in the officers of the militia of this commonwealth, shall be supplied by appointment of the governor, with the advice of the privy council, on recommendation from the respective county and corporation courts. Any thing in the said recited act to the contrary, notwithstanding. Penalties for neglect.

IV. SO much of the said act as authorises the adjutant-general to convene the inspectors of brigades for the purpose of receiving instructions, shall be, and the same is hereby repealed. Vacancies, how to be supplied.

V. *AND be it further enacted*, That the commissioned officers of the several regiments shall meet twice in every year within their respective regimental districts, for the purpose of being trained and instructed by the brigade inspectors. The days and places of meeting to be fixed on by the commanding officers of the brigades to which the regiments belong. The officers thus assembled, shall each continue two days, and no longer, every time they shall be called out. Every officer failing to attend such meeting, on being summoned, not having a reasonable excuse, to be adjudged of by a court-martial, shall forfeit and pay five dollars, to be appropriated as the other fines are by the said act. Part of the act of 1792 repealed.

VI. *AND be it further enacted*, That the seventh section of the said recited act, shall be, and is hereby repealed. Commissioned officers to be trained and instructed.

VII. *AND be it further enacted*, That instead of a fine of fifty cents upon any non-commissioned officer or soldier, for failing to appear at muster, according to the directions of the above recited act, a fine of seventy-five cents shall Part of the act of 1792 repealed.

(a) 1748, b. 10, se. 5, 6. † See chs. 146, & 153, and acts of 1795, ch. 1.

be imposed. If any non-commissioned officer or private shall be returned as a delinquent in not appearing armed and accoutred as the law directs, the court martial before whom the same shall be tried, may, if it appear reasonable, from the indigent circumstances of the delinquent, remit the fine incurred by him; provided every such delinquent, who hath a firelock of any kind, shall make it appear, that he brought the same to the muster.

On infants and apprentices.

VIII. THE fines and penalties incurred by infants and apprentices for the breach or neglect of their duty in any particular service by law required of them, shall be paid by the parent, guardian, or master.

Musters of companies.

IX. THERE shall be a muster of each company of militia once in every two months, except the months of *December, January, February, and March*, in every year.

Training the militia in frontier counties may be dispensed with.

X. AND whereas it is improper that the militia in the frontier counties, should be drawn from their dwellings in times of danger, merely for the purpose of training; *Be it enacted*, That the commanding officers of the brigades on the frontiers of this state, may dispense with the execution of this law, so far as relates to training the militia in such companies, battalions or regiments within their commands, as they shall judge expedient; and they shall instruct their brigade inspectors accordingly.

Lists of fines, when to be delivered to the collectors.

XI. LISTS of fines shall be delivered to the sheriffs on or before the thirty-first day of *December*, instead of the first day of *January* in every year.

Exemption of millers from militia duty;

XII. THE exemption of millers from militia duty, under the above recited act, shall be construed only to extend to such persons as are actually and necessarily employed in the management of water grist mills, legally established.

Of Ferrymen.

XIII. ALL ferrymen, actually and necessarily employed as such, shall be, and they are hereby exempted from militia duty.

Of Quakers and Menonists.

XIV. AND all Quakers and Menonists religiously scrupulous of bearing arms, and having a certificate from their respective societies according to the rules thereof, of their being members of such society, shall be, and they are hereby exempted from actual service in the militia; provided they shall furnish a substitute for such services, to be approved of by the commanding officer of the company.

XV. *AND be it further enacted*, That so much of the above recited act, as relates to the exemption of Quakers and Menonists from militia duty, is hereby repealed.

Division of the militia into regiments and battalions.

XVI. *AND be it further enacted*, That the county of *Loudoun* shall compose two regiments and four battalions; that the counties of *Berkeley, Culpeper, Shenandoah, Fauquier, Accomack, Amherst, Norfolk, Halifax, Pittsylvania, Dinwiddie, Mecklenburg, Bedford, Albemarle, Brunswick, Montgomery, Wythe, Prince William, Hanover, and Frederick*, shall compose two regiments and four battalions each; that the counties of *Middlesex and Essex*, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Richmond and Westmoreland*, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Powhatan and Cumberland*, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Harrison and Randolph*, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Charles City and New-Kent*, shall compose each one battalion, which two battalions shall constitute one regiment; the counties of *Elizabeth City and Warwick*, one battalion; and the counties of *York and James City*, one battalion, which two battalions shall compose one regiment; and each of the other counties in this commonwealth, and also the city of *Richmond* and borough of *Norfolk*, shall compose each one regiment, and two battalions.

Number of men in each company.

XVII. A COMPANY of militia established by virtue of the above recited act, shall not exceed one hundred, nor less than fifty rank and file. Whensoever any company district shall contain more than one hundred persons, subject to be inrolled in the militia, by the captain or commanding officer thereof, the same shall be divided into two districts, to be established in the same manner, as other districts are established by the said act; which new district thus formed, shall constitute an additional company, to the battalion of which it is a part.

Further time allowed for forming battalion and company districts.

XVIII. AND whereas the officers of the militia in several counties of this commonwealth, have failed to arrange their respective counties into districts for the formation of the several battalions and companies, established by the "*Act for regulating the militia of this Commonwealth*:" *Be it enacted*, that a further time of eight months, from the passing of this act, shall be allowed the said officers for arranging the proper districts, pursuant to the directions of the above

recited act. The several battalions and companies established by this act, shall be arranged into districts in the same manner as the battalions and companies established by the above recited act.

XIX. *AND be it further enacted*, That so much of the above recited act, as declares that the light companies of grenadiers, light infantry and riflemen, shall be composed of men from eighteen to twenty-five years of age, be, and the same is hereby repealed.

Part of the act of 1792 respecting light companies, repealed.

XX. *AND be it further enacted*, That in all cases of doubts respecting the age of any person inrolled, or intended to be inrolled in any company of militia, the party questioning, shall prove his age to the satisfaction of the officers of the company, within whose bounds he may reside, or a majority of them.

Rules respecting ages of persons to be inrolled.

XXI. *AND be it further enacted*, That every militia-man removing out of the bounds of one company to another, shall apply to the commanding officer of the company to which he did belong, who shall give him a discharge, certifying the class to which he belongs, and whether he has served his tour of duty or not, and the time and date of said service; which certificate the said militia-man shall produce to the captain or commanding officer of the company, in whose bounds he next settles, within ten days after his settlement, and the said captain or commanding officer is hereby required to inroll him in the numerical class, specified in the said certificate. And if the militia-man shall fail to produce the certificate as above directed, he shall be inrolled in the class destined to perform the next tour of duty, and the commanding officer of the company refusing to grant a certificate upon application to him made, shall incur a penalty of thirty dollars, one half to the informer, the other half to be collected and applied as the other fines imposed by this act.

Respecting inrolling militiamen removing out of the bounds of their companies.

XXII. *AND be it further enacted*, That all monies passing into the treasury of this commonwealth, by virtue of this act, and the act "*For regulating the militia of this commonwealth*," shall be appropriated as a fund for the purpose of supporting the necessary officers for carrying this law into effect, and of equipping and furnishing the militia with every necessary apparatus for the defence and security of the state; the surplus, if any, to be subject to such other appropriations as the General Assembly may from time to time appoint and direct; and the treasurer of the commonwealth shall keep all the monies arising from fines under the militia law, separate from all other monies, and keep a separate book of the same, and the expenditures thereof; any thing in any former law to the contrary hereof notwithstanding.

Money arising under the militia law, how to be appropriated.

XXIII. *AND be it further enacted*, That the governor shall cause a sufficient number of copies of this law, together with the act "*For regulating the militia of this commonwealth*," and the act "*More effectually to provide for the national defence, by establishing an uniform militia throughout the United States*," to be printed and distributed throughout this state, so that every general and field officer, and every brigade inspector and captain, be furnished with one copy.

Copies of the laws respecting the militia to be furnished to the officers.

XXIV. *AND* whereas it sometimes happens that the arsenal and other public property is protected by militia, enlisted for a fixed period, in preference to draughts therefrom: And whereas doubts have arisen, whether guards of the above description are comprehended in the thirty-first section of the militia law; *Be it enacted*, that the said section does comprehend the militia, when called into service, by enlistment for fixed periods, in like manner, as if they were employed in the usual manner.

Pay, &c. of the militia enlisted for fixed periods.

XXV. *AND be it enacted*, That whenever the public service shall require the employment of militia by water, that the said service shall be performed for the same pay and under the same regulations, as is given and established with respect to service by land.

When employed by water.

XXVI. *AND be it further enacted*, That the commanding officer of every battalion of militia, or the oldest captain in the county where no commanding officer of a battalion shall reside, shall from time to time, as he shall deem it necessary, appoint an officer and so many men of the militia, as to him shall seem necessary, once in every month, or oftener, if thereto required by such officer, to patrol and visit all negro quarters, and other places suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons, as aforesaid, unlawfully assembled, or any others strolling about from one plantation to another, without a pass from his or her master, mistress or owner, and take them before the next justice of the peace, who, if he shall see cause, is hereby required to order every such slave, servant, stroller, or other disorderly person,

Patrollers, how to be appointed;

their duty;

pay.

as aforesaid, to receive any number of lashes, not exceeding twenty, on his or her bare back; and in case one company of patrollers shall not be sufficient, more companies may in like manner be ordered for the same service. And after every patrol, the officer of every party shall, once in every month at least, return a report in writing upon oath, to the court of the county, in which he shall reside; and if the said court shall adjudge the said patrollers to have performed their duty according to law, they are thereupon empowered and required to levy fifty cents for every twelve hours each of them shall so patrol; and every officer failing to appoint patrollers according to the directions of this act, shall forfeit and pay twenty dollars for every such failure, which fines shall be laid, collected and accounted for, and appropriated as is herein directed, for laying, accounting for, and appropriating the several fines and penalties by this act directed.

Repealing clause.

XXVII. *AND be it further enacted*, That all acts and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Commencement of this act.

XXVIII. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CLIII.

An Act supplementary to the Act, to amend the Act for regulating the Militia of this Commonwealth.

[Passed the 10th of December, 1793.]

General officers, how to be commissioned.

I. *BE it enacted by the General Assembly*, That the governor with the advice of council, shall be, and he is hereby authorized and required, to commission the several major-generals, brigadier-generals and adjutant-general appointed, or who may be hereafter appointed, pursuant to the act "*For regulating the militia of this commonwealth.*"

How qualified.

II. *AND be it further enacted*, That each and every officer appointed, or who may hereafter be appointed and commissioned in the manner aforesaid, shall, previous to their entering on the execution of their respective offices, take the following oath, (to be administered by a justice of the peace, or the court of the county or corporation in which they respectively reside) to wit:

I, Virginia, do swear, that I will be faithful and true to the commonwealth of Virginia, of which I profess myself to be a citizen, and that I will faithfully and justly execute the office of of the militia of Virginia, according to the best of my skill and judgment: So help me GOD."

Commencement of this Act.

III. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CLIV.

An Act to amend the Act, intituled, "An Act for reducing into one, the several Acts for regulating the Inspection of Tobacco."

[Passed the 6th of December, 1793.]

Tobacco brought from upper to lower warehouses for storage, when to be sold by the inspectors.

I. *BE it enacted by the General Assembly*, That where any inspected tobacco shall be brought from an upper to a lower warehouse for the purpose of storage, and shall remain undemanded in the same for eighteen months from the time of its reception therein, the inspectors at such lower warehouse shall advertise, sell and account for the same in like manner, and under the like regulations as is prescribed by the twenty-eighth section of the act, intituled, "*An act for reducing into one, the several acts of Assembly for the Inspection of tobacco.*"

Tobacco burnt in the public warehouses to be paid for by the public.

II. *AND be it further enacted*, That where any warehouse established by the former or present session of Assembly, or which shall be established by any future session of Assembly, shall happen to be burnt, the loss sustained thereby shall be made good and repaid to the several persons injured, by the General Assembly; and no inspector or inspectors shall be held accountable for the same, in consequence of any receipt by him or them given. *Provided always*, That if the receipt for tobacco so burnt and destroyed shall be of an older date than twelve months, and in case of inspected tobacco brought to a lower warehouse for

proviso.

storeage, shall be of an older date than six months, the tobacco shall not be paid for by the public, but the owner or proprietor thereof shall bear the loss.

III. *AND be it further enacted*, That it shall and may be lawful for the inspectors annually to present to the auditor of public accounts, a certificate from the courts of the counties wherein the warehouses are respectively situated, ascertaining the quantity of tobacco received into such warehouse or warehouses, and also the quantity shipped in each year; and thereupon if it shall appear to the auditor that provided all the tobacco so received within the space of the year, had been shipped by the owners, that there would have been a sufficient sum received to have discharged their respective salaries as established by law, then and in such case it shall and may be lawful for the auditor to issue his warrant for the amount of their respective salaries, to be paid out of any money in the public treasury, arising from the surplus on tobacco; any law to the contrary notwithstanding.

IV. *THIS act shall commence and be in force, from and after the passing thereof.*

Inspectors to receive the full amount of their salaries when the tobacco inspected, if shipped, would have produced a sufficiency.

Commencement of this act.

CHAP. CLV.

An Act to amend the Act, intituled, "An Act reducing into one, the several Acts for regulating the Inspection of Flour and Bread."†

[Passed the 4th of December, 1793.]

I. *BE it enacted*, That all casks wherein flour shall be packed, shall be weighed, and the tare marked thereon. And if any person shall put a false or wrong tare on any cask of flour, to the disadvantage of the purchaser, he or she shall forfeit for every cask so falsely tared, eighty-three cents, and the inspector, or his deputy, or assistant, upon suspicion, or at the request of the purchaser, shall and is hereby required to unpack any cask of flour, and if the cask wherein flour is packed, be falsely tared, the miller or bolter shall pay the charges of unpacking and repacking, over and above the penalties imposed by this act, and by the act, intituled, "*An act reducing into one, the several acts for regulating the inspection of flour and bread,*" but otherwise the said charges shall be paid by the inspector or the purchaser, if the trial be made at his request. The penalty hereby imposed, shall and may be recovered, and shall be payable as in the said recited act is directed, of, and concerning the penalties therein imposed.

Casks to be weighed, & tare marked thereon. Penalty for a false tare.

How recoverable.

II. *THAT* part of the penalties which is to go to the use of the commonwealth, shall be paid to the inspector at the place where the offence shall be discovered, who shall annually to the court of his county, held in the month of *September*, render a fair and just account thereof, upon oath, a copy whereof shall be certified by the said court, and being so certified, shall be transmitted to the auditor of public accounts, by their clerk, who shall debit the said inspector therewith, and the said inspector shall annually pay the amount thereof, after deducting a commission after the rate of six *per centum*, into the public treasury, on or before the first day of *January* in each year; and in case of failure to make such payment, the balance due, may be recovered in like manner, as the public taxes are now recoverable from delinquent sheriffs. An account in like manner, shall be rendered by each inspector, at the next *September* court held in his county, of all the penalties heretofore paid to him, to be certified and transmitted as aforesaid, and he shall thereafter pay the part belonging to the commonwealth, in like manner, and he shall be entitled to the same commission, and be liable in case of failure of payment, to the same proceedings, as is herein before directed and prescribed in other cases.

That part of the penalties payable to the commonwealth, how to be collected and accounted for.

III. *EVERY* inspector failing to render the account herein before required, at the time, and in the manner herein before mentioned, shall be incapable of being re-appointed to the said office of inspector of flour, by his said county court.

Penalty on inspectors failing to render accounts of penalties received.

† See ch. 117, and 1795, ch. 7. 1797, ch. 7.

CHAP. CLVI.

An Act for amending the Act, intituled, "An Act for reducing into one, the several Acts concerning the Fees of certain Officers, and declaring the Mode of discharging the said Fees and County Levies."*

[Passed the 4th of December, 1793.]

Preamble.

I. **W**HEREAS that part of the sixteenth session of the act of last session of Assembly, intituled, "*An Act reducing into one the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees and county levies,*" which empowers the judges of the superior courts (the general court excepted) to make such allowances from time to time to their respective officers as they shall think reasonable, taking into account the time past for which no allowance hath been made by the General Assembly, hath been construed to empower the judges of the district courts to make the said allowances:

Part of the act of 1792 repealed.

II. *BE it therefore enacted*, That the said part of the sixteenth session shall be, and is hereby repealed; except so far as it may relate to the high court of appeals and high court of chancery.

Fees allowed to the clerk of the high court of chancery.

III. *AND* whereas it appears that sundry services of the clerk of the high court of chancery, formerly provided for, are not noticed in the said recited act of the last session of Assembly; *Be it further enacted*, that it shall and may be lawful for the clerk of the said high court of chancery, in addition to the fees allowed him by the said recited act, to demand, receive, and take the several fees hereinafter mentioned and allowed for any business by him done since the passage of the said recited act, or hereafter to be done by virtue of his said office, that is to say:

	Dols. Cts.
For every writ of <i>supersedeas</i> or <i>scire facias</i> ,	0 43
For taking bond on issuing a writ of <i>supersedeas</i> , <i>certiorari</i> , or for an appeal, or any other bond,	0 43
For every other writ whatsoever,	0 35
For entering the sheriff's return in the rule book,	0 35
For entering the personal appearance of the plaintiff or defendant, or the appearance of an attorney for either party,	0 18
For entering security for costs for persons out of the country,	0 35
For every rule entered in the rule book,	0 35
For a copy of every rule,	0 18
For every order in court,	0 18
For a copy of the same,	0 18
For filing papers for each party,	0 26
For docketing every cause on the docket (to be charged but once)	0 18
For entering every continuance on the docket,	0 18
For the filing a declaration and every plea or demurrer in any cause to the making up of an issue, directed by the high court of chancery, to be tried at the bar of the said court,	0 35
For every trial, swearing the jury and witnesses, and recording a general verdict,	0 87
For administering an oath or affirmation in court, except witnesses to a jury,	0 18

To public notaries.

IV. *AND* whereas it also appears that some of the fees to public notaries, formerly provided for by law, have been omitted in the act of last session, intituled, "*An act for appointing public notaries;*" *Be it therefore further enacted*, that it shall and may be lawful for every public notary, in addition to the fees allowed him by the said last recited act, to demand, receive, and take the following fees, to wit; for every attestation, protestation, and all other instruments of publication, under his seal of office, the sum of eighty-seven cents, and no more.

Commencement of this act.

THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CLVII.

An Act to amend the Act, intituled, "An Act concerning Coin, and for other Purposes."

[Passed the 6th of December, 1793.]

I. **B**E it enacted by the General Assembly, That so much of the act, intituled, "*An act concerning coin, and for other purposes,*" as relates to German gold and cut silver coin, shall be, and is hereby repealed.

Part of the act of 1792, respecting German gold and cut silver, repealed.

II. THIS act shall commence in force, from and after the first day of March next.

Commencement of this act.

CHAP. CLVIII.

An Act to amend the Act, "Concerning Grand-Juries, Petit-Juries, and Venire-Men."†

[Passed the 9th of December, 1793.]

I. **W**HEREAS, under the existing law, concerning grand-juries, petit-juries, and venire-men, the grand-juries of the district, county, and corporation courts, are not in positive and explicit terms directed to be citizens of this state, whereby it hath sometimes happened, that persons not citizens of this commonwealth, have been summoned and impannelled as grand-jurors in the said courts: For remedy whereof,

Preamble.

II. *BE it enacted*, That hereafter every grand-juror, summoned to attend any district, county, or corporation court, or impannelled to serve in the same, shall, in addition to the other requisites prescribed by the said act, "*Concerning grand-juries, petit-juries, and venire-men,*" be also a citizen of this commonwealth.

Grand-jurors must be citizens.

III. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this Act.

CHAP. CLIX.

An Act to amend an Act, reducing into one, the several Acts to oblige Vessels coming from Foreign Parts to perform Quarantine.||

[Passed the 5th of December, 1793.]

I. **W**HEREAS by the act, intituled, "*An act reducing into one, the several acts to oblige vessels coming from foreign parts to perform quarantine,*" no provision is made to compel persons coming into this commonwealth by land, from places infected with contagious diseases, to perform quarantine: For remedy whereof,

Preamble.

II. *BE it enacted*, That the governor, with advice of the council, shall appoint persons to superintend the performance of quarantine, in such places, and from time to time, as he shall judge necessary; the person so appointed, shall examine all persons coming into this commonwealth by land, from places infected with any contagious diseases, and compel them to perform a quarantine of so many days, and under such regulations, as shall be directed and prescribed by the governor, with advice of council, for the preservation of the health of the citizens of this commonwealth.

Superintendants of quarantine to be appointed for persons coming by land into the state from infected places.

III. AND whereas by the said act, the master or owner of a vessel is compelled to defray the expenses attending their vessel, after quarantine is performed, which in some cases is unreasonable: *Be it therefore enacted*, that the governor, with advice of council, be, and is hereby empowered to exempt the owner from the payment of such expenses, whenever he shall think it right and just so to do.

Executive may exempt owners of vessels from payment of expenses of quarantine.

IV. *AND be it further enacted*, That the vessels which have lately performed quarantine, be, and they are hereby released from the payment of the charges which accrued thereon.

Vessels which have lately performed it, exempted from expenses.

V. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

† See ch. 73.

|| See ch. 129, and acts of 1795, ch. 17.

CHAP. CLX.

An Act to amend the Act, intituled, "An Act for ascertaining the Salaries to the Officers of Civil Government."

[Passed the 6th of December, 1793.]

Part of the act of 1792 repealed.

Salary of the clerk of the general court for ex-officio services.

Vacancy during vacation, how to be supplied.

Present clerk to continue in office till the next court.

Allowance to the chancellor for employing a clerk.

Commencement of this act.

I. **B**E it enacted, That so much of the act of the last session of the General Assembly, intituled, "*An act for ascertaining the salaries of the officers of the civil government*," as relates to the salary of the clerk of the general court, shall be, and the same is hereby repealed.

II. *AND be it further enacted*, That the clerk of the said court shall receive for his ex-officio services, the sum of two hundred and fifty dollars *per annum*.

III. IN case of a vacancy in the office of clerk of the general court, during vacation, any three judges of the said court (of whom the senior justice shall be one) shall appoint a clerk, who upon taking the oath required by law, before any justice of the peace, shall continue in office, until a clerk shall be appointed by the said court. *Provided nevertheless*, That the clerk of the general court now in office, may continue to hold the same until the next meeting of the general court; any thing in any law to the contrary thereof, notwithstanding.

IV. *AND be it further enacted*, That the present judge of the high court of chancery, shall during his continuance in office, be allowed a sum, not exceeding two hundred and fifty dollars *per annum*, for the purpose of employing a clerk.

V. THIS act shall commence in force, from and after the first day of January next.

CHAP. CLXI.

An Act to amend an Act, intituled, "An Act to empower the High Sheriffs to proceed in a summary Way, against their Deputies."†

[Passed the 11th of December, 1793.]

Preamble.

Sheriff's remedy against his deputy, and his executors and securities after judgment against such sheriff.

When he may obtain judgment against his deputy, &c. before judgment is rendered against himself.

I. **W**HEREAS the laws heretofore passed, have in many instances been found inadequate to indemnify the sheriffs of this commonwealth against the conduct and default of their deputies, and in most cases they have been obliged to submit to a recovery first had and obtained against them before they could legally proceed against their deputies, whereby much injury and injustice has arisen to the sheriffs: *Be it therefore enacted*, that where any fine, amercement, penalty or judgment, has been assessed or rendered, or which may be assessed or rendered against any sheriff heretofore or now in office, or which may hereafter come into office, his heirs, executors or administrators, for or on account of any default or misconduct of any deputy of such sheriff, it shall and may be lawful for the court of the county, whereof such sheriff hath been, now is, or shall be sheriff, or for the district court including such county, upon motion to them made by such sheriff, his heirs, executors or administrators, to give judgment against such deputy, and his securities, their heirs, executors or administrators, for the full amount of all such fines, amercements, penalties or judgments, and to award execution for the same; provided that such deputy and his securities, their heirs, executors or administrators have ten days previous notice of such motion.

II. *AND be it further enacted*, That where any deputy sheriff heretofore or now in office, or which may hereafter come into office, hath been or shall be found in arrears, for any money, tobacco or other thing received, or which ought to be received by such deputy, by virtue of his office, and for which the principal of such deputy, his heirs, executors or administrators, is or may be chargeable, and shall not immediately pay or deliver the same to the person or persons entitled thereto, it shall and may be lawful for either of the said courts, upon motion to them made by such sheriff, his heirs, executors or administrators, to give the same judgment against such deputy, and his securities, their heirs, executors or administrators, as such sheriff, his heirs, executors or administrators, might by motion against him or them, on account of such arrears, misconduct or default, be liable to, and to award execution for the same; pro-

vided that such deputy and his securities, their heirs, executors or administrators, have ten days previous notice of such motion. *Provided nevertheless,* that no deputy sheriff, his heirs, executors or administrators, shall be subject to a motion made by the principal of such deputy, his heirs, executors or administrators, where a recovery has been had, or may be obtained against such deputy sheriff, his heirs, executors or administrators, by any person or persons whatsoever, before such motion.

Provided
Provided.

III. *AND be it further enacted,* That on all executions issuing on judgments obtained by any sheriff heretofore, or now in office, or which may hereafter come into office, his heirs, executors or administrators, against any deputy heretofore or now in office, or which may hereafter come into office, and his securities, their heirs, executors or administrators, or either of them, the clerk issuing such execution, shall, for the direction of the officer, to whom the same is directed, endorse, that "no security is to be taken," and such officer on levying the same, shall govern himself accordingly.

No security to be taken on judgments obtained by sheriffs against their deputies, &c.

IV. ALL acts or parts of acts coming within the purview of this act, shall be, and are hereby repealed.

Repealing clause]

V. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CLXII.

An Act to fix the Time of Meeting of the General Assembly.

[Passed the 6th of December, 1793.]

BE it enacted, That the meeting of the General Assembly, shall hereafter be on the second Tuesday in November, in every year; any law to the contrary thereof, notwithstanding.

CHAP. CLXIII.

An Act for regulating the Police of Towns in this Commonwealth, and to restrain the Practice of Negroes going at Large.

[Passed the 10th of December, 1793.]

I. **W**HEREAS great inconveniences have arisen in many, if not all the towns within this commonwealth, from the practice of hiring negroes and mulattoes, who pretend to freedom, but are in fact slaves: For remedy whereof,

Preamble.

II. *BE it enacted by the General Assembly,* That from and after the passing of this act, every free negro or mulatto, who resides in, or is employed to labour within the limits of any city, borough, or town, shall be registered and numbered in a book to be kept for that purpose by the clerk of the said city, borough, or town, which register shall specify his or her age, name, colour and stature, by whom, and in what court the said negro or mulatto was emancipated; or that such negro or mulatto was born free. A copy of the said register, signed by the clerk, and attested by one alderman or town magistrate, shall be annually delivered to the said negro or mulatto, for which copy the clerk shall receive twenty-five cents, to be paid by the person receiving the same.

Free negroes and mulattoes residing or employed in certain towns, &c. to be registered and numbered; and each of them annually furnished with a certificate thereof.

III. ANY person harbouring or employing any negro or mulatto, who has not a certified copy of the said register, shall forfeit and pay for each offence five dollars to the owner of such negro or mulatto, and if there be no owner, to the informer; to be recovered by warrant before any alderman or magistrate, and shall be moreover liable to an action for damages at the suit of the party grieved.

Penalty for employing them without.

IV. *AND be it further enacted,* That in case any negro or mulatto, who resides in or is employed to labour, in any city, borough, or town, shall neglect to procure such certificate, it shall be lawful for any alderman or magistrate, to commit to jail such negro or mulatto, there to remain till such copy is produced and the jailor's fees paid.

Magistrates to commit those who neglect to procure such certificates.

V. *AND for the prevention of free negroes and mulattoes going at large in the several counties of this commonwealth, Be it further enacted,* That no free negro or mulatto shall be allowed to go at large, or hire himself or herself to labour in any county, without having his or her certificate registered in the clerk's office of the county wherein he or she resides, and having a certified copy of the

Free negroes and mulattoes in the country not to go at large or hire themselves without being registered

Penalty for employing
them without.

To renew their certi-
ficates once in three years.

Or may be committed
to jail.

Commencement of this
act.

said certificate. For registering and granting such certificate, the clerk shall be allowed twenty-five cents.

VI. ANY person employing or harbouring any negro or mulatto, coming within the purview of this act, shall forfeit and pay for each offence five dollars, to the use of the informer, to be recovered by a warrant before a justice of the peace, and shall be moreover liable to an action for damages at the suit of the party grieved.

VII. EVERY such free negro or mulatto, shall once in every three years, obtain a new certificate, under the same rules and regulations, as are prescribed for obtaining the first.

VIII. AND in case any negro or mulatto, who resides in or is employed to labour in any county, shall neglect to procure such certificate, it shall be lawful for any magistrate in the said county to commit to jail such negro or mulatto, there to remain till such certificate is produced and the jailor's fees paid.

IX. THIS act shall commence and be in force, from and after the first day of January next.

CHAP. CLXIV.

An Act to prevent the Migration of Free Negroes and Mulattoes into this Commonwealth.

[Passed the 12th of December, 1793.]

How they may be ap-
prehended and sent out
of the state.

I. **B**E it enacted, That it shall not be lawful for any free negro or mulatto to migrate into this commonwealth, and every free negro or mulatto who shall come into this commonwealth contrary to this act, shall and may be apprehended and carried by any citizen before some justice of the peace of the county where he shall be taken; which justice is hereby authorized to examine, send and remove every such free negro or mulatto out of this commonwealth, into that state or island from whence it shall appear he or she last came; and for this purpose, the sheriff or other officer, and other persons, may by such justice be employed within the commonwealth, upon the same terms as are by law directed in the removal of criminals from one county to another. And every free negro or mulatto who shall come or be brought into this commonwealth by water from any country, state or island, may and shall be exported to the place from whence he or she came, or was brought, and the charges attending the same shall be paid by the importer; to be recovered by motion in the name of the commonwealth, upon ten days previous notice thereof in any court of record.

Penalty for bringing
them into the state.

II. EVERY master of a vessel, or other person who shall bring into this commonwealth by water or by land, in any vessel, boat, land carriage, or otherwise, any free negro or mulatto, shall forfeit and pay for every such person so brought, the penalty of one hundred pounds lawful money; one half to the commonwealth, and the other half to the person who shall inform thereof; to be recovered by action of debt or information in any court of record, and the defendant in every such case shall be ruled to give special bail.

Exception.

III. THIS act shall not extend to masters of vessels bringing into this state any free negro or mulatto employed on board and belonging to such vessel, and who shall therewith depart, nor to any person travelling into this state, having any free negro or mulatto as a servant.

Slaves brought from
Africa or the West-In-
dia islands to be sent
out of the state.

IV. **AND** be it further enacted, That in case any slave shall be brought or come into this state from *Africa* or the *West-India* islands, directly or indirectly, upon information thereof given to any justice of the peace, it shall be his duty to cause such slave to be apprehended immediately and transported out of this commonwealth, and the expense attending such transportation, shall be paid by the person importing such slave, recoverable in the name of the justice directing such slave to be transported, by warrant before a single magistrate.

Commencement of this
act.

V. THIS act shall commence and be in force, from and after the first day of January next.

CHAP. CLXV.

An Act for establishing several new Ferries.†

[Passed the 22d of November, 1793.]

I. **BE** it enacted by the General Assembly, That public ferries shall be constantly kept at the following places, and the rates for passing the same as followeth, that is to say: From the land of *Moses Sutton*, in the county of *Harrison*, across the west fork of *Monongahela* river, to the land of *John Owen* on the opposite shore, the price for a man four cents, and for a horse the same; from the land of *John Keller*, in the county of *Hampshire*, across *Patterson's* creek, to his land on the opposite shore, the price for a man six cents, and for a horse the same; from the land of *John Hix*, in the county of *Campbell*, across *Staunton* river, to the land of *Joseph Eckhols*, deceased, on the opposite shore, the price for a man four cents, and for a horse the same; from the commons in the town of *Milton*, across *Rivanna* river, to the lands of *Thomas Mann Randolph*, junior, on the opposite shore, (to be kept by *Jacob Oglesby*) the price for a man four cents, and for a horse the same; from the land of *Benjamin Lewis*, across *Greenbrier* river, to the land of *John Stuart* on the opposite shore, the price for a man six cents, and for a horse the same; from the land of *Christiana Selser*, in the county of *Monongalia*, across *Cheat* river, to her land on the opposite shore, the price for a man four cents, and for a horse the same; and from the land of *Thomas Reade Rootes*, in the county of *Hanover*, across *Pamunkey* river, to his land on the opposite shore, the price for a man four cents, and for a horse the same.

Public ferries established across the west fork of Monongahela river,

Patterson's creek and Staunton,

Rivanna,

Greenbrier,

Cheat,

and Pamunkey rivers.

II. AND for the transportation of wheel-carriages, tobacco, cattle, and other beasts, at the places aforesaid, the ferry keepers may demand and take the following rates, that is to say: For every coach, chariot or waggon, and the driver thereof, the same as for six horses; for every cart or four wheel chaise, and the driver, the same as for four horses; for every two wheel chaise or chair, as for two horses; for every hogshead of tobacco, as for one horse; for every head of nett cattle, as for one horse; and for every sheep, goat, lamb, or hog, one fifth part of the ferriage for one horse, and no more.

Rates.

III. IF any ferry keeper shall demand or receive any greater rates than are hereby allowed for the ferriage or carriage of any thing, he shall for every such offence, forfeit and pay to the party grieved, the ferriages demanded or received, and two dollars; to be recovered with costs before a justice of the peace of the county, where the offence shall be committed.

Penalty for demanding more than the legal rates.

IV. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

General Assembly, begun and held at the Capitol, in the City of *Richmond*, on *Tuesday*, the 11th Day of *November*, in the Year of our Lord, 1794.

1794.

CHAP. CLXVI.

An Act concerning Appointments to Civil Offices.

[Passed the 24th of November, 1794.]

I. **BE** it enacted by the General Assembly, That no senator or delegate, shall during the time for which he was elected, be appointed to any civil office under the authority of the commonwealth, which shall have been created, or the emoluments whereof shall have been increased or decreased during such time.

II. THIS act shall be in force, from and after the passing hereof.

Commencement of this act

† See ch. 116.

CHAP. CLXVII.

An Act concerning granting Appeals from Decrees in Chancery.

[Passed the 29th of November, 1794.]

Mode of obtaining appeals from decrees of the county courts in chancery, to the high court of chancery.

From decrees of the high court of chancery to the court of appeals.

Commencement of this Act.

I. **B**E it, and it is hereby enacted by the General Assembly of the Commonwealth of Virginia, That whensoever any person or persons, body politic or corporate, shall think himself or themselves aggrieved by the decree or final order of any county or corporation court sitting in chancery, in any suit or controversy whatsoever, where the debt or other thing claimed or recovered, exclusive of costs, shall be of the value of thirty-three dollars or three thousand pounds of tobacco, or where land, slaves, or other specific property shall be the subject of the decree or final order, such person or persons, body politic or corporate, being a party defendant, may enter an appeal to the high court of chancery from such decree or final order, and before granting any such appeal, the party praying the same being a defendant, or some other responsible person, shall enter into bond with sufficient security in a reasonable penalty, with condition to satisfy and pay the amount recovered in the county or other court aforesaid, and all costs, and to perform in all things the said decree or final order in case the same be affirmed.

II. AND in like manner and under the like regulations, an appeal may be prayed and granted unto a defendant from any decree or final order of the high court of chancery unto the court of appeals, where the debt or other thing claimed or recovered, exclusive of costs, shall be of the value of one hundred dollars or three thousand pounds of tobacco, or where lands, slaves, or other specific property shall be the subject of the decree or final order.

III. THIS act shall commence and be in force, from the passing thereof, but shall not be construed to extend to any appeals heretofore allowed and granted.

CHAP. CLXVIII.

An Act to amend an Act, intituled "An Act declaring what shall be Treason; for punishing certain Offences injurious to the Tranquility of the Commonwealth; and concerning Felonies and Offences committed out of the Jurisdiction of the same."

[Passed the 2d of December, 1794.]

By whom, and how persons convicted of treason may be pardoned.

Commencement of this act.

I. **B**E it enacted by the General Assembly, That the Governor, or in case of his absence, inability, or death, the Councillor who acts as president, shall in no wise have or exercise a right of granting pardon to any person or persons convicted of treason against the commonwealth, but may suspend the execution until the meeting of the General Assembly, who shall determine whether such person or persons are proper objects of mercy or not, and order accordingly.

II. THIS act shall commence and be in force from the passing thereof.

CHAP. CLXIX.

An Act to amend the Act to regulate the Solemnization of Marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen Marriages; and for Punishment of the Crime of Bigamy.†

[Passed the 3d of December, 1794.]

Preamble.

I. **W**HEREAS it is suggested to the General Assembly of Virginia, that there is no ordained minister of the gospel in regular communion with any society of Christians, or other person residing in either of the counties of Lee or Randolph, authorised to celebrate the rites of matrimony between persons desirous of entering into that state, whereby the inhabitants of the said counties are exposed to great inconvenience, and in many instances to considerable personal danger, as persons desirous of contracting matrimony, are, in order to have the ceremony legally performed, obliged to travel a considerable distance over mountains difficult to pass, and often infested with hostile Indians:

† See ch. 104, and acts of 1796, ch. 28.

II. *BE it therefore enacted by the General Assembly of Virginia, That from and after the passing of this act, it shall and may be lawful for the courts of the said counties to appoint two persons in each of the said counties, who shall be residents within the county from the court whereof they shall have received their appointments, who by virtue of this act shall be authorized to celebrate the rites of marriage wherein they respectively reside.*

Courts of certain counties to appoint persons to celebrate the rites of matrimony in their respective counties,

III. *THAT every person so appointed, before entering into the execution of his office, shall take the oath of fidelity to the commonwealth, and enter into bond with sufficient security, in the sum of fifteen hundred dollars, payable to the governor for the time being, and his successors, for the true and faithful performance of his trust, whereupon, such court is hereby required to grant to the person so appointed, a certificate in the following form, given under the hand and seal of the then sitting judge, or senior magistrate, and attested by the clerk, to wit:*

Persons so appointed, how to be qualified.

THIS shall certify to all whom it may concern, that at a court held for the county of _____, on the _____ day of _____, in the year of our Lord _____, A. B. took the oath of fidelity to this commonwealth, and having entered into bond and security, agreeable to an act, intituled, "An act, to amend the act to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy," is hereby authorized to celebrate within the county of _____, the rites of marriage between persons desirous of contracting the same:

Form of certificate to be given them.

And every testimonial so obtained, shall be considered as a good and sufficient authority to celebrate the rites of marriage within the county from the court whereof the testimonial is obtained, between persons regularly applying therefor.

IV. *PROVIDED, That any person so appointed, shall in no instance celebrate the rites of marriage, until the due publication of banns, or in consequence of a license duly obtained: And if he should celebrate the rites of marriage when forms and provisions of law have been dispensed with, which are necessary to be observed when marriage is celebrated by an ordained minister, he shall be subject to the same penalties as are in such instances inflicted on ordained ministers, recoverable in the manner, and liable to the action of the party aggrieved, as is directed by the act, intituled "An act to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy."*

Not to marry persons without publication of banns, or a license.

To be subject to the same penalties for breach of their duty as ordained ministers,

V. *AND if any person so appointed by the courts aforesaid, or either of them, shall die or remove out of the county, it shall be lawful for the said courts or either of them, to appoint some person in lieu of the person so dying or removing, who shall qualify to the performance of his trust in the manner before directed, and shall be subject to the same penalties and actions, and by the same mode of recovery above pointed out.*

Removing out of the county, others to be appointed in their stead.

VI. *AND be it further enacted, That any person appointed to celebrate the rites of marriage by virtue of this act, shall be entitled to the same fees, and liable to the same actions, in case of refusal to celebrate the same between persons legally applying therefor, as are given to or against ordained ministers in similar circumstances by virtue of the above recited act, and that he shall return to the clerk of the county a certificate of every marriage by him celebrated, a record whereof shall be kept by the clerk as is directed by law when the marriage ceremony has been performed by an ordained minister.*

To be allowed the same fees as ordained ministers.

To return to the clerk's offices certificates of the marriages celebrated by them.

CHAP. CLXX.

An Act to amend an Act, "Reducing into one the several Acts concerning Wills, the Distribution of Intestates Estates, and the Duty of Executors and Administrators."†

[Passed the 5th of December, 1794]

I. *BE it enacted by the General Assembly, That if a testator having a child or children born at the time of making and publishing his last will and testament, shall at his death leave a child or children born after the making and publishing of his said last will and testament, the child or children so after born, if such child or children be unprovided for by settlement, and be nei-*

What portion of the father's estate shall be allotted to children born after the making of their father's will, in which they are pre-

† See ch. 92.

permitted, where they are not provided for by settlement.

ther provided for nor disinherited, but only pretermitted by the last will and testament, shall succeed to the same portion of the father's estate as such child or children would have been entitled to if the father had died intestate; towards raising which portion the devisees and legatees shall contribute proportionably out of the parts devised and bequeathed to them by the same will and testament, in the same manner as is provided in the case of posthumous children.

II. AND whereas by an act, intituled, "*An act reducing into one, the several acts concerning slaves, free negroes, and mulattoes,*" it is enacted, "That all negro and mulatto slaves in all courts of judicature within this commonwealth, shall be held, taken and adjudged to be personal estate:" And whereas by the act "*Reducing into one the several acts concerning wills, the distribution of intestates estates, and the duty of executors and administrators,*" it is also enacted, "That executors and administrators, whether it be necessary for payment of debts or not, shall as soon as convenient after they are qualified, sell at public sale all such goods of their testator or intestate, specific legacies excepted, as are liable to perish, be consumed, or rendered worse by keeping:" And whereas doubts may arise whether as slaves being personal estate, are perishable and liable through age or sickness to be rendered of less value by keeping, executors and administrators are not bound to sell the same whether it be necessary for the payment of debts or not: For declaring the law touching the same, *Be it further enacted*, That executors and administrators shall not sell the slaves of their testators or intestates, unless the other part of the personal estate, regard being had to the privilege of specific legacies, shall not be sufficient for paying the debts and expenses, and in that case such part only of the slaves shall be sold as shall be sufficient to satisfy the debts and expenses, and the residue of the slaves shall be reserved in kind for the legatees or distributees, of their testators or intestates respectively.

Executors not to sell their testator's slaves for payment of debts, unless the other personal estate is insufficient.

Commencement of this act.

III. THIS act shall commence and be in force from the passing thereof.

CHAP. CLXXI.

An Act to amend the Act, intituled, "An Act reducing into one the several Acts for punishing Persons guilty of certain Thefts and Forgeries."

[Passed the 8th of December, 1794.]

Felony without benefit of clergy, to counterfeit or assist in counterfeiting any deed, will, bond, bill, note, acquittance or receipt, or assignment of any bond, bill, &c.

Or to utter or publish as true any such counterfeited deed, will, bond, bill, note, &c. or assignment thereof.

I. **B**E it enacted by the General Assembly, That if any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or wittingly act or assist in the false making, forging or counterfeiting any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money or tobacco, or other valuable thing, or any acquittance or receipt either for money or tobacco, or other valuable thing, or any endorsement or assignment of any bond, writing obligatory, bill of exchange, promissory note for the payment of money or tobacco, or other valuable thing, with intention to defraud any person or persons whatsoever, or any corporation, or shall utter or publish as true, any false, forged, or counterfeited deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money or tobacco, or other valuable thing, endorsement or assignment of any bond, writing obligatory, bill of exchange, promissory note for the payment of money or tobacco, or other valuable thing, acquittance or receipt for money, tobacco, or other valuable thing, with intention to defraud any person or persons whatsoever, or any corporation, knowing the same to be false, forged, or counterfeited, then every such person being thereof legally convicted, shall be deemed guilty of felony, and shall suffer death as a felon without benefit of clergy.

Commencement of this act.

II. THIS act shall commence and be in force from and after the last day of March next.

+ See ch. 133.

CHAP. CLXXII.

An Act to amend the act, to reduce into one the several Acts concerning Guardians, Orphans, Committees, Infants, Masters and Apprentices.†

[Passed the 12th of December, 1794.]

I. **B**E it enacted by the General Assembly, That every guardian appointed by the last will and testament of any person which shall be legally proved and recorded in any court, shall before he exercises any authority over the minor or his estate, appear openly in such court and declare his acceptance of the guardianship, which shall be recorded, and shall give bond with such security as the court may approve of in the same manner as statutory guardians, unless it is otherwise directed by the testator's will, and at the first or second session thereafter, he shall deliver into such court an inventory upon oath of all the estate which he shall have received, and within two successive courts after the receipt of any other estate of the ward, an inventory of such estate to be entered in the book directed to be kept concerning other guardians, and every testamentary guardian shall exhibit to such court once in every year, which if it be a county or corporation court, shall be in September, or at the next session if there be none in that month, or oftener if specially required by the court, accounts of the produce and profits of the estate of the ward, and of the sales and disposition of such produce, and of the disbursements; which accounts shall be examined by the court, or by such persons as the court shall refer them to, and being found and certified, or reported to be properly and fairly stated, and the articles thereof, to be justified by the vouchers, and the report in case of a reference being approved and confirmed by the court, shall with such certificate or confirmation be recorded in the book aforesaid: And if any article of such accounts at any time afterwards be excepted to by the ward or his representatives, it shall be incumbent on him to prove or shew the falsity or injustice thereof, unless notice on his behalf shall have been given at the time of passing the accounts that such article would be excepted to, and a memorandum of that notice and the exception shall have been entered on record.

Testamentary guardians to give bond and security before they exercise any authority over their wards; unless it is otherwise directed by the will.

When they are to deliver into the court an inventory of their wards' estates; and accounts of their receipts and disbursements.

Their accounts to be examined, and if approved and confirmed to be recorded.

Exceptions thereto, how to be made.

II. THE court aforesaid if a testamentary guardian shall appear to have been guilty of a flagrant abuse of trust, may displace him, and appoint some other person or persons under the like rules and regulations as are prescribed by law in cases of statutory guardians.

When they may be displaced by the court and others appointed.

III. EVERY testamentary guardian who shall fail or neglect to appear before the court in which the last will and testament of his testator shall be proved and recorded, within the space of six months thereafter, may be summoned and compelled to declare his acceptance or renunciation of the trust, and if every of the guardians appointed in any such last will and testament shall renounce the same, which renunciation shall be recorded, the said court may and shall thereafter proceed to appoint and qualify some other person or persons to the guardianship, in like manner as if no such testamentary guardian had been nominated in such last will and testament.

Court to appoint guardian when the testamentary guardian being summoned renounces the guardianship.

IV. A TESTAMENTARY guardian who shall not deliver in such inventory and render such accounts as aforesaid, shall by order of the court to which he is amenable, be summoned, and if he remain in default, be compelled to perform his duty or be displaced, for which purpose the summons or other process from a county or corporation court may be directed to, and shall be executed by the sheriff of any other county wherein the guardian may be found; and every justice of the court sitting therein at any time during the term or session in which the process ought to have been ordered, if it be not ordered accordingly, shall be amerced.

Proceedings against testamentary guardians failing to deliver in their accounts.

Penalty on the justices for neglect.

V. THE estate of a testamentary guardian not under a specific lien, shall after the death of the guardian be liable to whatsoever may be due from the guardian to his ward, before any other debt due from such guardian.

On the death of a guardian, debt due to his ward to be first paid.

VI. IF a testator shall omit to direct the sum of money, or the fund to be applied to the maintenance and education of his infant, and if the disbursements of the testamentary guardian, or other guardian being suitable to the estate and circumstances of the ward, shall exceed the profits of his or her estate in any year, the balance with the allowance of the said court may be debited in the

Balance due to the guardians for disbursements, to be debited in the account of the ensuing year, or paid out of the infant's personal estate.

† See chap. 95.

When and how such estate shall be sold for that purpose.
Balance due to the ward, how to be disposed of.

Power of testamentary guardians to lease their wards' lands.

Of statutory guardians.

Testamentary guardians may by order of the court of chancery, execute such deeds as their wards could if of age.

To have the same power to receive surrenders of leases, and to make others as statutory guardians.

Courts may in passing guardians' accounts, make them a reasonable allowance.

Where the court may direct part of an orphan's estate to be sold for his support.

Courts may direct overseers of the poor in binding out orphans, to covenant for the payment to the apprentice of any sum not exceeding twenty dollars.
Commencement of this act.

account of a succeeding year, and paid out of the personal estate of the infant, and so much and such part thereof may with the approbation of the court, be sold at public auction to the highest bidder, after reasonable notice has been given of the time and place of such sale for that purpose as shall be necessary, and the balance appearing on the contrary side may be put out to interest for the benefit of the ward, upon such security as the court shall direct and approve, or the guardian if it remain in his hands shall account for the interest, to be computed from the time his accounts were or ought to have been passed.

VII. IT shall be lawful for the testamentary guardian, provided there be no prohibition in the last will and testament, to make a lease of any lands, tenements, or hereditaments belonging to his ward, reserving the best annual rent and most beneficial covenants for any term, ending when the ward shall arrive to the age of twenty-one years, or continuing beyond that time as the ward shall elect.

VIII. AND it shall be lawful for every statutory guardian in like manner to make a lease of any lands, tenements, or hereditaments, belonging unto his ward, for any term, so that the same does not exceed that period, when his said ward shall arrive at the age of fourteen years.

IX. A TESTAMENTARY guardian if his ward be a trustee or mortgagee of any lands, tenements or hereditaments, upon petition of one or more of the parties interested, to the high court of chancery, by order of such court to be made after hearing, may execute any deed, or perform any other act, which the trustee or mortgagee if of full age might or could execute or perform, and such deed or other act shall be valid, except that he shall not be bound by a warranty or other covenant contained in the deed.

X. A TESTAMENTARY guardian shall have the power under the same regulations to make or take a surrender of a former lease, and to take or make a new lease as are prescribed and granted to a statutory guardian, unless inconsistent with the last will and testament, subject however to be determined or continued by the ward after he or she arrives to full age.

XI. IT shall be lawful for the court having cognizance of the accounts of any guardian, whether statutory or testamentary, upon passing the same, to make such allowance to the guardian as it shall deem a reasonable compensation for his attention, care and trouble.

XII. WHERE an orphan shall have an estate, the profits of which are insufficient for his or her support, and yet is of such tender years, that the overseers of the poor cannot prevail upon a proper person to accept of the same orphan as an apprentice, it shall and may be lawful for the guardian or curator, with the approbation of the court, to take from the personal estate of his ward such sums of money as are necessary for the immediate support of the orphan, until he or she shall arrive at an age when the overseers of the poor can find a suitable master or mistress for him or her. The courts of each county respectively shall have full power at their discretion, to direct the overseers of the poor to covenant with the master or mistress of any apprentice bound to serve under their order, that a sum not exceeding twenty dollars shall be paid to the said apprentice, instead of the sum of twelve dollars heretofore allowed by law.

XIII. THIS act shall commence and be in force from and after the first day of March next.

CHAP. CLXXIII.

An Act concerning Prison Breakers.

[Passed the 13th of December, 1794]

Preamble.

I. WHEREAS it hath been held that by the common law, the offence of breaking a jail or prison is in all cases felony:

In what cases breaking prison shall be felony.

II. BE it therefore enacted by the General Assembly, That none from henceforth who being in a jail, breaketh prison, shall have judgment of life or member for breaking of prison only, except the cause for which he was taken and imprisoned did require such judgment, if he had been convicted thereupon, according to the law of the land.

Commencement of this act.

III. THIS act shall commence and be in force from the passing thereof.

CHAP. CLXXIV.

An Act concerning Debtors and their Securities.

[Passed the 23d of December, 1794.]

I. **W**HEREAS in many instances creditors have delayed to commence actions on bonds, bills, or promissory notes, executed to them for tobacco or money, until the principal debtor or debtors of such creditors either becoming insolvent or migrating from this commonwealth, the innocent securities of such debtor or debtors have been ultimately compelled to discharge the amount of the money or tobacco due by such bill, bond, or note, without the possibility of being afterwards reimbursed by such principal debtor or debtors: For remedy whereof,

Preamble.

II. *BE it enacted by the General Assembly*, That when any person or persons shall hereafter become bound as security or securities by bond, bill, or note, for the payment of money or tobacco, and shall apprehend that his or their principal debtor or debtors is or are likely to become insolvent, or to migrate from this commonwealth, without previously discharging such bond, bill, or note, so that it will be impossible or extremely difficult for such security or securities after being compelled to pay the amount of the tobacco or money which may be due by such bond, bill, or note, to recover the same back from such principal debtor or debtors, it shall and may be lawful for such security or securities, in every such case, provided an action shall have accrued on such bond, bill, or note, to require by notice in writing of his or their creditor or creditors, forthwith to put the bond, bill, or note, by which he or they may be bound as security or securities as aforesaid, in suit; and unless the creditor or creditors so required to put such bond, bill, or note, in suit, shall in a reasonable time commence an action on such bond, bill, or note, and proceed with due diligence in the ordinary course of law to recover a judgment for, and by execution to make the amount of the tobacco or money due by such bond, bill, or note, the creditor or creditors so failing to comply with the requisition of such security or securities, shall thereby forfeit the right which he or they would otherwise have to demand and receive of such security or securities the amount of the money or tobacco which may be due by such bond, bill, or note.

When securities in bonds may require the creditors to commence suits thereon.

Creditors failing to do so, to lose their remedy against the securities.

III. ANY security or securities, or in case of his or their death, then his or their executors or administrators, may in like manner and for the same cause, make such requisition of the executors or administrators of the creditor or creditors of such security or securities, as it is herein before enacted may be made by a security or securities of his or their creditor or creditors; and in case of failure of the executors or administrators so to proceed, such requisition as aforesaid being duly made, the security or securities, his or their executors or administrators, making the same, shall have the same relief that is herein before provided for a security or securities when his or their creditor or creditors shall be guilty of a similar failure.

Securities and their executors may proceed in the same manner with the executors of the creditor.

IV. *PROVIDED always*, That nothing in this act contained shall be so construed as to affect bonds with collateral conditions, or the bounds which may be entered into by guardians, executors, administrators, or public officers.

Bonds with collateral conditions and those given by guardians, executors and public officers excepted.

V. *AND provided also*, That the rights and remedies of any creditor or creditors against any principal debtor or debtors, shall be in no wise affected by this act. Any thing therein to the contrary, or seeming to the contrary, notwithstanding.

Creditors' remedy against his principal debtor, not to be affected.

VI. THIS act shall commence and be in force, from and after the first day of *March*, which shall be in the year of our Lord, one thousand seven hundred and ninety-five.

Commencement of this act.

CHAP. CLXXV.

An Act supplementary to the Act, intitled "An Act to empower Securities to recover Damages in a Summary Way."

[Passed the 23d of December, 1794.]

I. **B**E it enacted by the General Assembly, That in all cases where execution hath been or shall hereafter be awarded or issued in any of the

How securities in bonds on which executions

may be awarded without judgment, may proceed against their principals.

How they may proceed against those who were bound with them as securities.

Executions on such judgments, how to be enforced.

Commencement of this act.

Act of 1793 concerning executions continued until the 1st of January, 1796.

Justices of any county may administer the oath to an insolvent debtor committed to the jail of such county.

courts of record within this commonwealth, against any person or persons as security or securities, his, her, or their heirs, executors, or administrators, upon any bond, obligation, or recognizance upon which by the laws of this commonwealth execution can be so awarded or issued without judgment, and the amount of such bond, obligation, or recognizance, or any part thereof, or the debt or damages due by reason thereof, or any part thereof, hath been paid or discharged under the said execution issued thereon by such security or securities, his, her, or their heirs, executors, or administrators, it shall and may be lawful for such security or securities, his, her, or their heirs, executors, or administrators, to obtain judgment by motion against such principal obligor or obligors, recognizor or recognizers, his, her, or their heirs, executors, or administrators, in any court where such execution may have been awarded or issued against such security or securities, his, her, or their heirs, executors, or administrators.

II. *AND be it further enacted*, That where the said principal obligor or obligors, recognizor or recognizers, have or hereafter shall become insolvent, and there have been, or shall be two or more securities jointly bound with the said principal obligor or obligors, recognizor or recognizers, in any such bond, obligation, or recognizance, and execution shall be awarded or issued thereon against one or more of such securities, and his or their legal representatives, it shall and may be lawful for the court in which such execution was awarded or issued, upon motion of the party or parties, his or their legal representatives, against whom execution hath been awarded or issued as aforesaid, to award or issue execution against all and every of the obligors and recognizers, and legal representatives, for their and each of their respective shares and proportions of the said debt or damages due by reason of the said obligation or recognizance. *Provided always*, That no judgment shall be obtained or execution awarded or issued by motion as aforesaid, unless the party or parties against whom the same is prayed, shall have ten days previous notice in writing thereof.

III. ALL judgments entered, and executions awarded and issued by virtue of this act, shall be enforced under the like regulations with judgments under the act, intituled, "*An act to empower securities to recover damages in a summary way.*"

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CLXXVI.

*An Act to continue and amend the Act, intituled, "An Act for further continuing and amending the Act, intituled "An Act for reducing into one, the several Acts concerning Executions, and for the relief of Insolvent Debtors."**

[Passed the 24th of December, 1794.]

I. **B**E it enacted by the General Assembly of Virginia, That the act, intituled, "*An act for further continuing and amending the act, intituled, An act for reducing into one the several Acts concerning executions, and for relief of Insolvent Debtors,*" passed in the year one thousand seven hundred and ninety-three, shall be, and the same is hereby continued in force, until the first day of January, one thousand seven hundred and ninety-six.

II. *AND be it further enacted*, That if any person shall hereafter be taken or charged in execution in any suit commenced or prosecuted in any court of record within this commonwealth, it shall be lawful for any judge or justice of the said court, or of the court of that county or corporation, to whose jail such person shall be committed, by warrant under his hand and seal, to command the jailor or keeper of the said prison, to bring before any two justices of the county or corporation, to whose jail he may be committed, at the courthouse of such county or corporation, on a certain day to be appointed in such warrant, the body or bodies of such person or persons so in prison as aforesaid, together with a list of the several executions, with which he or she shall stand charged in the said jail, which warrant such jailor is hereby required to obey, and reasonable notice thereof shall be given to the party or parties, his or their executors, administrators, or agents, at whose suit such person or persons shall be in execution; and the said justices shall have full power to administer the oath heretofore required by law to such prisoner or prisoners, and to release him or them in the manner and under the regulations and provisions prescribed by the said recited act.

* See ch. 151. and acts of 1765, ch. 2.

III. And be it further enacted, That if any sheriff or other officer shall fail to deliver to the creditor, his agent or attorney, or other legal representative, on demand, any bond taken for the forthcoming of property,† or any twelve months bond taken under the above recited act, or return the same to the office from whence the execution issued, within sixty days from the return day of the execution, such sheriff or other officer, his executors or administrators, shall be liable to the same fine and penalty for every month of such failure, to be recovered in the same manner by the party injured, as is directed by law against a sheriff failing to return an execution.

Penalty on a sheriff failing to deliver a forthcoming or replevy bond to the plaintiff on demand, or to return it within 60 days to the clerk's office.

IV. ON a sale under execution upon twelve months credit, where the amount of such sale shall exceed the principal, interest and costs, if the sheriff or other officer shall fail to take a twelve month's bond for such excess as directed by the twenty-sixth section of the above recited act, such sheriff or other officer so failing, his executors or administrators, shall be liable to the debtor or his legal representatives for the full amount of such excess, to be recovered in the same manner as is directed by law against a sheriff failing to pay money received on an execution.

Mode of proceeding against a sheriff failing to take a bond for the excess, on a sale on 12 months credit.

V. THE obligee or obligees, in a twelve month's replevy bond, shall and may have the like remedy thereon, by *feri facias*, against the executors or administrators of a deceased obligor or obligors, as such obligee or obligees may now have against the obligor or obligors themselves; and that every assignee or assignees, and the executors or administrators of every assignee of such bond, shall be entitled to the like remedy thereon, as by law is given to the executors or administrators of the first assignee thereof.

Obligees and assignees remedy on replevy bonds.

VI. IF a replevy or forthcoming bond be at any time quashed as faulty, the obligee or obligees in such bond, besides his or their remedy against the sheriff, may moreover have execution on his or their judgment, in the same manner as if such replevy or forthcoming bond had never been taken.

Plaintiff may sue out new execution when a replevy or forthcoming bond is quashed.

VII. ALL persons who have or shall hereafter have any money or tobacco due on a twelve month's replevy bond, or bond taken for the excess on a sale under execution upon twelve months credit, may at their election after lodging the same in the clerk's office, with an affidavit as directed by law, prosecute as well the writs of *elegit* and *capias ad satisfaciendum* thereon, as the writ of *feri facias* now given by law; on which writs of *elegit* and *capias ad satisfaciendum*, the same rules and regulations shall be observed, as are by law established, when issued on judgments. *Provided*, That if any person or persons taken on any such *capias ad satisfaciendum*, after twelve months replevy, shall tender to the sheriff or other officer serving the same, slaves or other personal property, to the value of the debt and costs for which such execution has issued, or may hereafter issue, the sheriff or other officer shall not take any security, either to have the goods forthcoming at the day of sale, or for the payment of the money or tobacco at a future day, but shall proceed to sell the same, or sufficient thereof to raise the money or tobacco mentioned in the said execution.

Writs of *elegit* and *capias ad satisfaciendum* may be issued on replevy bonds, &c.

VIII. IF any sheriff or other officer shall fail to return any execution whatever or attachment for not performing a decree in chancery, to the office from whence the same issued, on or before the return day thereof, the executors or administrators of such sheriff or other officer, as well as the securities of such sheriff or other officer, and the executors or administrators of such securities, shall be liable to like fine and penalty, recoverable in the same manner as by law is directed against a sheriff himself failing to return an execution.

Remedy against executors and securities of a sheriff failing to return an execution, &c. in due time.

IX. NO sheriff or other officer shall return any execution or attachment for not performing a decree in chancery to the office from whence the same issued, without noting thereon how he hath executed the same, unless by the express directions in writing of the plaintiff, his agent or attorney; and if any sheriff or other officer having no such directions, shall return any such execution or attachment to the office from whence the same issued, without noting or endorsing thereon how he hath executed the same, such sheriff or other officer, and his securities, and the executors or administrators of all and every of them, shall in every such case be liable to the like fine, and recoverable in the same manner as is directed by law against a sheriff failing to return an execution.

No execution to be returned without an indorsement thereon, how it hath been executed.

X. WHEN any sheriff or other officer shall provide sustenance for the support of slaves, horses, or other live stock, by virtue of the twentieth section of

Allowance to sheriff for support of slaves &

† Case of forthcoming bonds altered from law of 1793, ch. 151:

live stock taken in execution.

Sheriffs to include their commissions in forthcoming and replevy bonds.

Fines and penalties on executors of sheriffs, to affect only the assets in their hands.

Part of the 38th sect. of the act of 1793, repealed.
Commencement & duration of this act.

the above recited act, the said sheriff or other officer in lieu of the mode thereby provided for obtaining compensation therefor, shall be allowed *per day* for each slave fifteen cents; for each horse or mule twelve cents; and for each head of horned cattle five cents; which allowance the said sheriff or other officer shall charge to the plaintiff, to be collected in same manner as commissions arising on executions, and shall be paid by the defendant to the plaintiff, to be taxed in the bill of costs by the said sheriff or other officer.

XI. *AND be it further enacted*, That every sheriff or coroner (as the case may be) shall be allowed for taking every bond to the creditor sixty two cents, and no more; and that every sheriff or coroner may include his commissions in forthcoming and replevy bonds taken on any writ of execution; but he shall not demand or receive such commissions on forthcoming bonds, unless the same shall be forfeited.

XII. *PROVIDED always*, That where any fine or penalty is inflicted on the executors or administrators of any sheriff by this or the above recited act, the same shall be considered to affect only the assets in their hands as executors or administrators.

XIII. SO much of the thirty-eighth section of the said recited act as is contrary hereto, shall be, and the same is hereby repealed.

XIV. THIS act shall commence and be in force, from and after the thirty-first day of *December*, one thousand seven hundred and ninety-four, until the first day of *January*, one thousand seven hundred and ninety-six.

CHAP. CLXXVII.

*An Act to amend the Act for regulating Pilots, and ascertaining their Fees.**

[Passed the 24th of December, 1794.]

Pilots carried to sea, to receive the same wages as the mate.

Pilots hereafter obtaining branches, to give bond and security.

Pilots residing out of the state, not to act in any boat belonging to this state.

Allowance to pilots for each day they attend a vessel at the master's request.

Rates of pilotage for ships of war.

One fourth added to the pilotage of certain vessels.

Repealing clause.

Exception as to vessels going from the Capes up Patowmac.

Commencement of this Act.

I. *BE it enacted by the General Assembly*, That every master of a vessel, carrying a Pilot to sea, shall pay to such pilot the same wages as the mate of such vessel receives.

II. EVERY pilot hereafter applying for a branch, shall, previous to obtaining the same, enter into bond, with such security as the commissioners may approve, in the sum of eight hundred dollars.

III. NO pilot residing in another state shall be allowed to act as a pilot in any boat belonging to this state; and if any such person shall presume to act, he shall be liable to the same penalty for each offence as is imposed by law on such as violate the terms of their branch and respective class, to be recovered in like manner.

IV. EVERY pilot being requested by the owner or master of a vessel, and attending the same with his boat, shall be allowed and paid the sum of five dollars for each day he shall attend.

V. EVERY pilot taking charge of any ships of war, shall receive the following prices in lieu of the pilotage heretofore allowed, that is to say: For all ships of war above fifty guns, from *Cape Henry* to *Hampton Road*, sixteen dollars; for all ships under fifty and above twenty guns, twelve dollars; from *Cape Henry* to *York town* for all ships above fifty guns, twenty dollars; for all ships under fifty guns and above twenty guns, fifteen dollars; from *Cape Henry* to any river on *Moskjack* bay, twenty dollars; from the *Cape* to *Smith's* point on *South Patowmac*, forty dollars, and the same back again.

VI. EVERY pilot shall be allowed and paid for the pilotage of any vessel above seventy tons, and coming from sea, one fourth in addition to the sums allowed by law.

VII. SO much of any act or acts as comes within the purview of this act, is hereby repealed.

VIII. *PROVIDED*, That nothing herein expressed shall affect the rate of pilotage as established by law from the *Capes* to the different places up the *Patowmac* river, which shall remain as estimated in the law passed in one thousand seven hundred and ninety-two.

IX. THIS act shall commence and be in force, from and after the first day of *March* next.

* See acts of 1793, ch. 19.

CHAP. CLXXVIII.

An Act for the Support of the Marine Hospital.

[Passed the 25th of December, 1794.]

I. **B**E it enacted by the General Assembly, That a tax of thirty cents shall be, and is hereby imposed on every sailor, to be paid by the captain, master or owner of the vessel on her return from a voyage at the time of making entry of such vessel.

Taxes imposed on all sailors coming into the ports of this commonwealth.

II. EVERY captain, master or owner of a vessel on his return from a voyage, shall at the time of entering his vessel, give in upon oath to the collector a list of the names of sailors in his vessel, and moreover pay down the tax hereby imposed, to be by him deducted out of their wages. If the captain, master or owner shall fail to give in such list, he shall forfeit and pay the sum of forty dollars, to be recovered by the collector with costs on motion in any court of record in this commonwealth, provided the party has ten days previous notice of such motion. If the captain, master or owner of any vessel shall fail to pay down the amount of the tax as aforesaid, it shall be lawful for the collector, and he is hereby required to recover the same by warrant, before a magistrate, where the sum doth not exceed five dollars, and where it exceeds that sum, by motion as before directed in case of failure to give in a list.

When and how to be collected.

III. EVERY collector in this commonwealth on or before the first day of March next, shall enter into bond with sufficient security in the court of the county where he resides, in the penalty of four thousand dollars, payable to the Governor and his successors, with condition for the due and faithful accounting for and paying all such sums of money as shall or may come to his hands by virtue of this act. Every collector shall render such account quarterly to the treasurer of the commonwealth, and pay to him the money he shall have received by virtue of this act, deducting a commission of two and an half for his trouble in collecting and paying the same, and on failure thereof, such collector shall forfeit and pay the sum of eight hundred dollars, to be recovered by the treasurer in any court of record in this commonwealth by motion, provided the collector has ten days previous notice of such motion.

Collectors to give bond and security for collecting and accounting for the said tax.

IV. ALL monies received by the treasurer in virtue of this act shall be applied under the direction of the Executive towards finishing and supporting the Marine hospital in the town of Washington, in the county of Norfolk: Provided, that no seaman or mariner whatever, who shall arrive in any port of this commonwealth, (other than into the ports on James, York, Rappahannock and Elizabeth rivers) shall be considered as coming within the purview of this act. Any thing herein contained to the contrary notwithstanding.

To render accounts thereof quarterly to the treasurer. Their commissions.

Money received by virtue of this act to be applied to the support of the marine hospital in Washington, in Norfolk county. Ports in which the tax is payable.

CHAP. CLXXIX.

An Act to amend the Act for regulating Conveyances.

[Passed the 25th of December, 1794.]

I. **W**HEREAS it is enacted in the fifth section of the act, intituled, "*An act for regulating conveyances*," passed the thirteenth day of December, in the year of our Lord, one thousand seven hundred and ninety two, in the following words, to wit: "If the party who shall sign and seal any such writing reside not in Virginia, or in the district or county where the lands conveyed lie, the acknowledgment of such party, or the proof by the number of witnesses requisite, of the sealing and delivering of the writing, before any court, of law, or the mayor or other chief magistrate of any city, town, or corporation of the county in which the party shall dwell, certified by such court, or mayor, or chief magistrate, in the manner such acts are usually authenticated by them, and offered to the proper court, to be recorded within eighteen months after sealing and delivering, where the party resides out of this commonwealth, and within eight months after the sealing and delivery, where the party resides within this commonwealth, shall be as effectual as if it had been in the last mentioned court:" And whereas the operation of the said act is found not to be co-extensive with the intent thereof, by reason that some of the subdivisions of the United States, as well as of other countries, are not denominated by the term of counties:

Preamble.

How deeds, &c. made by persons residing out of the state, may be proved and recorded.

Commencement of this act.

II. *BE it therefore enacted*, That if any party who shall sign and seal any such writing as is contemplated in the section aforesaid, reside not in *Virginia*, the acknowledgment by such party, or the proof by the number of witnesses requisite of the sealing and delivering of the writing before any court of law, or the mayor or other chief magistrate of any city, town, or corporation, of and in the country in which the party shall dwell, certified by such court, or mayor, or chief magistrate, in the manner such acts are usually authenticated by them, and offered to the proper court to be recorded within two years after the sealing and delivering, shall be as effectual as if it had been done in the last mentioned court.

III. THIS act shall commence and be in force from the passing thereof.

CHAP. CLXXX.

An Act to amend an Act, intituled, "An Act concerning Escheators."†

[Passed the 26th of December, 1794.]

Preamble.

I. **W**HEREAS a contrariety of opinion hath prevailed respecting the construction of an act of the General Assembly of this commonwealth, passed *November* thirtieth, one thousand seven hundred and ninety-two, intituled, "*An act concerning escheators*;" and it is proper that the said act should be so explained and amended as to prevent any doubts in the exposition thereof in future:

How many jurors shall be impannelled on each inquest.

Where they shall meet. Inquisitions when taken, how to be disposed of.

II. *BE it enacted by the General Assembly*, That each and every inquest hereafter to be taken under the said in part recited act, shall consist of sixteen freeholders, who shall be returned and impannelled by the sheriff of the county, to meet at the courthouse of the said county where the inquest is taken, who shall suffer every person to give evidence openly in the presence of the said jurors; and the said inquisition so taken, shall be by indentures to be made between the escheator and any twelve or more of the inquest, whereof the counter part shall remain in the possession of the first person that shall be sworn in the said jury, and by him shall be returned to the court of the same county, there to be recorded, and the other part sealed by the jurors agreeing in their verdict, shall by the escheator be sent into the court of the district in which the land lieth, within one month after the inquest taken, and the same proceedings shall then in every case and manner be pursued as is directed in the said act.

How and when escheated lands shall be sold.

III. AND where the escheator proceeds to a sale of lands under the provisions in the said act, the same shall be sold at public vendue, at the courthouse of the county wherein the said land lieth, either by the whole tract, or in such manner as in his opinion will increase the value thereof.

How far this act is to affect the act of 1792 concerning escheators.

IV. THIS act shall not be construed to repeal any part or parts of the aforesaid act, other than such as are rendered nugatory by the express directions of this act.

Escheators' fees, and commissions.

V. AND whereas no allowance hath been provided by law for the services required to be performed by the several escheators of this commonwealth, and some allowance being adjudged reasonable, *Be it therefore enacted*, that for each inquest taken by any escheator on behalf of this commonwealth, such escheator shall be allowed the sum of five dollars, to be paid out of the fund charged with the payment of the civil list; and that he shall also be allowed a commission of five *per cent.* on all sums by him received by virtue of his office, and which shall be paid into the public treasury by him.

Attorney for the commonwealth, to attend at the taking of inquests. Allowance to him.

VI. AND it is hereby declared to be the duty of the attorney prosecuting for the commonwealth, in any and every county therein, to prosecute such inquest; and such attorney for his trouble and expense, shall be allowed the sum of five dollars for every inquest and office found he shall attend, to be paid by the auditor of public accounts out of the aggregate fund.

Commencement of this

VII. THIS act shall commence and be in force, from and after the passing thereof.

† See acts of 1797, ch. 6, 13.

CHAP. CLXXXI.

An Act authorizing the Executive to remit the Damages and Fines incurred by Sheriffs and Collectors in certain Cases.

[Passed the 26th of December, 1794.]

I. **B**E it enacted by the General Assembly, That when any application shall be made to the Executive by any sheriff or other collector of the public revenue, or their securities, or the representatives of either, for the remission of damages or fines incurred by them in favour of the commonwealth, the Executive shall be authorized to take into consideration the particular circumstances of each case, and may remit the whole or part of such damages or fines, as to them shall appear just and reasonable. *Provided*, That before any damages, or any part thereof shall be remitted, that the applicant shall produce a certificate from the auditor of public accounts, that the principal, interest and costs have been paid into the public treasury.

Discretionary power vested in the Executive to remit damages, and fines incurred by public collectors.

Provise.

II. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

* By act of Dec. sess. ch. 51, the Executive prohibited from remitting any fine, unless by law they be empowered to do so.

General Assembly, begun and held at the Capitol, in the City of Richmond, on Tuesday, the 10th day of November, in the Year of our Lord, 1795.

CHAP. CLXXXII.

An Act to amend and reduce into one act, the several acts of Assembly for regulating the Militia of this Commonwealth.

[Passed the 24th of December, 1795.]

WHEREAS the Congress of the United States, did, at their session of one thousand seven hundred and ninety-two, pass an act, intituled, "*An act more effectually to provide for the national defence, by establishing an uniform Militia throughout the United States,*" and it is expedient for this Legislature to carry the same into effect, so far as respects this state: Preamble.

I. *BE it therefore enacted*, That the counties of Accomack, Northampton, Princess Anne, Norfolk, and the Borough of Norfolk, shall compose one brigade; the counties of Nansemond, Isle of Wight, Southampton, Surry, Suffolk and Prince George, one brigade; the counties of Elizabeth City, Warwick, York, James City, Charles City, New Kent, Hanover, Henrico, and the Cities of Richmond and Williamsburg, one brigade; the counties of Gloucester, Mathews, Middlesex, Essex, King William, King & Queen, Lancaster, Northumberland, Richmond and Westmoreland, one brigade; and the said brigades shall compose one division: That the counties of Loudoun and Fairfax, shall compose one brigade; the counties of Fauquier, Prince William, Stafford and King George, one brigade; the counties of Culpeper, Madison, Orange, Spotsylvania and Caroline, one brigade; the counties of Louisa, Goochland, Fluvanna, Albemarle and Amherst, one brigade; and the said brigades shall compose one other division: The counties of Frederick and Berkeley, shall compose one brigade; the counties of Rockingham, Augusta, and Shenandoah, one brigade; the counties of Wythe, Washington, Russell, Lee, Grayson, and Montgomery, one brigade; the counties of Rockbridge, Botetourt, Greenbrier, Bath, and Kanawha, one brigade; the counties of Hampshire, Hardy, Pendleton, Randolph, Harrison, Monongalia, and Ohio, one brigade; and the said brigades shall compose one other division: The counties of Henry, Patrick, Franklin, Campbell, and Bedford, shall compose one brigade; the counties of Pittsylvania, Halifax, Charlotte, and Prince Edward, one brigade; the counties of Dinwiddie, Greenville, Brunswick, Lunenburg, and Mecklenburg, one brigade; the counties of Chesterfield, Amelia, Nottoway, Powhatan, Cumberland, and Buckingham, one brigade; and the said brigades shall compose one other division. Counties composing brigades and divisions of militia.

II. *AND be it further enacted*, That the counties of Loudoun, Berkeley, Culpeper, Shenandoah, Fauquier, Accomack, Amherst, Norfolk, Halifax, Pittsylvania, Dinwiddie, Mecklenburg, Bedford, Albemarle, Brunswick, Montgomery, Wythe, Prince William, Hanover, and Frederick, shall compose two regiments, and four battalions each; that the counties of Middlesex and Essex, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Westmoreland and Richmond shall compose two battalions, which two battalions shall compose one regiment; that the counties of Harrison and Randolph, shall each compose one battalion, which two battalions shall constitute one regiment; that the counties of Charles City and New Kent, shall compose one battalion each, which two battalions shall constitute one regiment; that the counties of Elizabeth City and Warwick, shall form one battalion; and the counties of York, James City, and the City of Williamsburg, shall form one other battalion, which two battalions shall constitute one regiment; and each of the other counties in this commonwealth, and also the City of Richmond, and Borough of Norfolk, shall compose each two battalions, which two battalions shall constitute one regiment; and every battalion as aforesaid, shall, if convenient, be formed into five companies, each company to consist of not less than fifty nor more than one hundred rank and file. What counties shall form one or more regiments or battalions, and where containing a battalion only, what counties shall be united in order to form a regiment.

III. *AND be it further enacted*, That there shall be an adjutant general for the militia of the state, a major general to each division, and a brigadier general General officers how appointed & commissioned

to each brigade, to be appointed by joint ballot of both houses of the General Assembly, who shall reside within the limits of their respective commands. Each major general shall appoint his own aids-de-camp, and each brigadier his own brigade inspector. And the governor, with advice of council, shall commission the several major generals, brigadier generals, and the adjutant general who may be hereafter appointed pursuant to this act. And all vacancies hereafter accruing in any of the said offices, shall be supplied by appointments in like manner to be made.

Certain field officers of artillery and cavalry, to be appointed and commissioned.

IV. *AND be it further enacted*, That the Governor, with the advice of Council, shall be, and he is hereby authorized and required to appoint and commission to each division, one lieutenant colonel commandant and two majors to command the several companies of artillery and cavalry (as the case may be) annexed to each division, and to arrange such companies of artillery into regiments and battalions in such manner as to them may seem most convenient, to be denominated the _____ regiment and _____ battalion of the _____ regiment of artillery or cavalry (as the case may be) and all returns of the strength and state of the several companies of artillery and cavalry, shall be made by the commanding officers of the several regiments, battalions, and companies, under the like rules, regulations, and penalties, as are by law directed with respect to the rest of the militia.

Courts of counties and corporations to recommend field officers and officers of inferior rank: How to be commissioned, and how vacancies are to be supplied.

V. *AND be it further enacted*, That where it has not been already done, the courts of the several counties and corporations, shall from the field and other officers who hold commissions in the militia, proceed to recommend to the Executive the officers necessary to complete the regiments, battalions, and companies, pursuant to this act, by grades and seniority; and the persons so recommended, shall be commissioned by the Governor, agreeably to the constitution of this state; And all vacancies thereafter happening in the said offices of the militia shall be supplied by appointment of the Governor, with advice of the Council, or recommendation from the court of the respective county or corporation where such vacancy happens; any thing in any act to the contrary notwithstanding.

Officers not recommended by courts to become supernumeraries.

VI. ALL persons who hold commissions under the late militia laws of this state, and who have not been recommended by their respective courts, shall be considered as supernumerary officers, but may be recommended to supply vacancies hereafter happening in the officers of the militia, and in case any supernumerary officer so recommended, shall on such recommendation refuse to serve, such officer shall no longer avail himself of his former commission, so as to claim an exemption from militia duty.

Oath of officers.

VII. *AND be it further enacted*, That each and every officer appointed, or who may hereafter be appointed and commissioned in manner aforesaid, shall previous to his entering on the execution of his office, take the following oath (to be administered by a justice of the peace, or the court of the county or corporation in which such officer resides) to wit: "I _____ do swear that I will be faithful and true to the commonwealth of Virginia, of which I profess myself to be a citizen, and that I will faithfully and justly execute the office of _____ in the militia thereof, according to the best of my skill and judgment. So help me GOD." If the said oath be administered by a justice of the peace, it shall be his duty to certify the same to the court of his respective county or corporation, there to be entered of record by the clerk.

Executive to number divisions, brigades and regiments, and cause the same to be registered in the office of the adjutant general.

VIII. IT shall be the duty of the Executive to number by ballot the several divisions, brigades, and regiments, and cause the same to be registered in the office of the Adjutant-General; and every commission hereafter issued by the Governor, as aforesaid, shall express the number of the division, brigade, and regiment respectively, to which the person obtaining the same, shall belong.

Counties to be laid off into districts for forming battalions and companies, and how.

IX. WHERE commanding officers of regiments have failed to lay off their regimental, battalion and company districts, or where any alteration in districts actually laid off, may hereafter be found necessary, commanding officers of regiments shall assemble the commanding officers of battalions and companies at some fit and convenient place, and may proceed to lay off or alter any such regimental, battalion or company district, which districts shall in all cases be designated by certain lines and bounds, and recorded by the clerks of the Courts of Enquiry, respectively.

Captains to cause their respective companies to be classed into divisions for the regular performance of duty.

X. *AND be it further enacted*, That where it has not been already done, it shall be the duty of commanding officers of companies, to proceed forthwith to divide their companies into divisions by ballot from one to ten, for the purpose of a regular rotine of duty when called into actual service; and to return

a roster of each division, and its number, in rotation, within fifteen days thereafter, to the commanding officer of his battalion, who shall forthwith transmit the same to the commanding officer of the regiment, who shall direct the same to be recorded by the clerk of the Court of Enquiry. The same regulations shall be observed by every commanding officer of a company, battalion, and regiment, on the subsequent inrollment of any person therein, unless such person shall produce a certificate of his having been before drawn for the above purpose, in which case he shall be inrolled accordingly. And every militia man removing out of the bounds of one company into another, shall apply to the commanding officer of the company to which he did belong, who shall give him a discharge certifying the class, wherein he was arranged, and whether he had performed his tour of duty or not, and also the time and date of said service; which certificate the said militia man, shall produce to the Captain or commanding officer of the company into whose bounds he shall so have removed, within ten days after his settlement; and such officer is hereby required to inroll him in the numerical class specified therein; and every militia man so removing and failing to produce such certificate, shall be arranged and inrolled in the class destined to perform the next tour of duty: And if any Captain or commanding officer of a company shall refuse to grant such a certificate upon application to him made for that purpose, he shall for such refusal, incur a penalty of thirty dollars, to be assessed and applied as other fines imposed by this act.

XI. *AND be it further enacted*, That the Governor with the advice of Council, shall and may cause the several companies of artillery, cavalry, grenadiers, light infantry, and riflemen, to be allotted by entire companies into divisions from one to ten, for a regular routine of duty; and the said companies shall in future be called into actual service by entire companies in such manner and proportion, as the rest of the militia, or as the nature of the service may require; and all such allotments shall be returned to the office of the adjutant-general to be recorded by him.

Artillery, cavalry, grenadiers, light infantry, and riflemen, to be allotted into divisions.

XII. *AND be it further enacted*, That the members of the council of state, judges of the superior courts, clerks of both houses of the general assembly, clerks of the superior and inferior courts, the attorney-general, the treasurer and his clerks, the auditor of public accounts, the register of the land-office, and their clerks, all inspectors of tobacco, all professors and tutors, and students of the college of William & Mary, and all other public seminaries of learning, all ministers of the gospel licensed to preach according to the rules of their sect, who shall have previously taken before the court of their county the oath of fidelity to the commonwealth, keepers of the public, district, and county jails, and of the public hospital, millers actually and necessarily employed in the management of water grist mills legally established, all ferrymen actually and necessarily employed as such, shall, and they are hereby exempted from the performance of all and any part of the duties required by this act: And all quakers and menonists religiously scrupulous of bearing arms, and having a certificate from their respective societies of their being members of such society, shall be, and they are hereby exempted from all service in the militia: *Provided*, They shall furnish a substitute for actual service, to be approved of by the commanding officer of the regiment within whose bounds he shall reside, and all artificers employed, or who may hereafter be employed at the arsenal at the Point of Fork, during their continuance in that employment. *Provided*, That regimental, battalion, or company musters shall not be considered as actual service within the meaning of this law.

Persons exempted from militia duty.

XIII. *AND be it further enacted*, That the commanding officers of companies shall inroll every able bodied white male citizen between the ages of eighteen and forty-five (except such as are exempted by this act,) resident within his district; and that in all cases of doubt respecting the age of any person inrolled or intended to be inrolled in any company of militia, the party questioned shall prove his age to the satisfaction of the officers, or a majority of the officers of the company within whose bounds he may reside.

What persons shall be inrolled.

XIV. *AND be it further enacted*, That the Governor, with the advice of Council, or on the recommendation of the county or corporation courts, shall issue commissions for at least one captain, one lieutenant, and one ensign to each battalion, who shall proceed by voluntary enlistment within their battalion to inroll a sufficient number of men to complete their company or companies, and be distinguished by the denomination of grenadiers, light-infantry, or riflemen,

Officers necessary for companies of grenadiers, light infantry, riflemen, and artillery, to be appointed by the Executive.

at the discretion of the commanding officer of the regiment; and every person belonging to said light companies shall wear while on duty, such caps and uniforms as the Executive shall direct, to be purchased by the commanding officers of the regiment out of the money arising on delinquents, and the said companies shall perform the same routine of duty, and be subject to the same rules, regulations, and orders as the rest of the militia. And the Governor, with the advice of Council, is hereby empowered to appoint and commission at their own discretion the necessary officers for one or more companies of artillery in each brigade, who are hereby authorized and empowered to enlist by voluntary enlistments, and in such proportion to each officer respectively so appointed, as the Executive shall direct, a company or companies, to be denominated the _____ company of artillery; in like manner commissions may issue for the necessary officers for one or more troops of cavalry in each brigade, who shall also by voluntary enlistments, and in the same proportion to their respective ranks, enlist a company or companies, to be denominated the _____ company of cavalry. And all and every officer or officers so appointed, who shall fail to enlist or complete his quota, within three months after receiving his commission, shall at the discretion of the Executive, (unless good cause is shewn to the contrary) be discontinued.

Musters of artillery and cavalry, how often; and in what cases officers thereof may sit in a court of enquiry.

XV. *AND be it further enacted*, That there shall be a muster of each troop of cavalry and company of artillery once in every two months, except the months of January, February, March, and December, in every year: And it shall be the duty of the captain or commanding officer of every such troop or company, and they are hereby required at each and every muster, to call his roll, examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof upon oath to the commanding officer of the regiment within whose bounds such delinquent may reside, to be reported and proceeded against in like manner as other delinquents. And it shall be lawful for any commissioned officer of cavalry or artillery to sit in any court of enquiry and assessment of fines, to which any person in their respective companies is reported a delinquent: *Provided*, That it shall not be lawful for more than one such officer of cavalry and artillery to sit in such court at the same time.

Musters of the militia generally, when and how often, and how to be notified.

XVI. THERE shall be a muster of each company of militia once in every two months, except the months of December, January, February, and March, in every year, to be appointed by the commanding officer thereof at such place as he shall think most convenient within his district; and there shall be a muster of each battalion in the month of May, in every year, to be appointed by the commanding officer of the regiment to which such battalions respectively belong, at such place as he deems most convenient within the battalion district; and there shall be a muster of each regiment in the month of October, in every year, to be appointed by the commanding officer of the brigade to which such regiments respectively belong, at such place as he shall think most convenient within the regimental district; which said company, battalion, and regimental musters, shall continue one day, and no longer; the time and place of such regimental musters shall be notified to the commanding officers of regiments forty days previous thereto; the commanding officers of regiments shall give notice to the commanding officers of battalions at least thirty days; the commanding officers of battalions to the commanding officers of companies at least twenty days; and the commanding officers of companies to their serjeants at least ten days; and the serjeants to each person in his company at least three days before such muster: The notices to be given by the commanding officers of brigades, regiments, and battalions, shall be in writing, delivered to each person to be notified, or left at his usual place of abode: And every serjeant failing to give notice agreeably to the commanding officer of his company, to each person therein, shall forfeit and pay for each and every offence three dollars; to be assessed and recovered as other fines imposed by this act: *Nevertheless*, All notices publicly given by the commanding officers of companies at their respective musters, of any subsequent muster, shall be held and deemed as legal notice within the meaning of this act, as to all persons present at such musters, any thing herein to the contrary notwithstanding. Every officer and soldier shall appear at his respective muster field on the day appointed by eleven o'clock in the forenoon. At every muster the commanding officer of the company shall call his roll, examine every person belonging thereto, and note down all delinquencies accruing therein, and make return thereof at or before the next regi-

mental or battalion court of enquiry, to the commanding officer of his battalion, including those which occurred on the day of his last regimental or battalion muster; and the commanding officers of regiments and battalions shall at their respective regimental or battalion muster (as the case may be) take notice of all delinquent officers; and shall lay the same together with the returns of delinquencies from the commanding officers of companies before the court of enquiry appointed under this act, to take cognizance of, and determine on them; and to each of the said returns shall be annexed the following certificate, to wit: "*I ————— do certify that the returns hereto annexed, contain all the delinquencies which have occurred since my last return, having duly examined the same.*"

XVII. EVERY commanding officer of a company shall within ten days after every regimental or battalion muster, make up and report to the commanding officer of his battalion, a return of his company in such manner and form as shall be furnished by the proper officer from time to time. It shall be the duty of the commanding officers of battalions to make like returns to the commanding officers of regiments within ten days thereafter, who shall cause the adjutant of his regiment to make regimental returns to their respective brigade inspectors, within twenty days thereafter.

Regular returns of militia to be made.

XVIII. AND whereas it may be improper that the militia in the frontier counties should be drawn from their dwellings in times of danger, merely for the purpose of training: *Be it enacted*, that the commanding officers of brigades on the frontiers of this state, may dispense with the execution of this law, so far as relates to training the militia in regiments and battalions within their commands, as they shall judge expedient; and they shall instruct their brigade inspectors accordingly.

Commanding officers of brigades may exempt the militia of the frontier counties from mustering in regiments and battalions in certain cases.

XIX. EACH captain or commanding officer of a company shall appoint to his company four serjeants, four corporals, a drummer and fifer, to be approved of by the commanding officer of his battalion.

XX. IN all cases of death, absence, or resignation of any major-general, brigadier-general, lieutenant colonel commandant, major, captain, or lieutenant, the next officer in rank, in his respective commands, shall be considered as the commanding officer during such vacancy, and liable to perform the duties required by this act, and for neglect therein, shall incur the penalties annexed thereto.

In case of the death of any officer, &c. officer next in rank to succeed to the command.

XXI. IT shall be the duty of every commanding officer of a regiment, battalion, or company, at their respective musters, to cause the militia to be trained and exercised agreeably to the mode of discipline prescribed by Congress, under pain of being arrested and tried for breach of their duty; and for this purpose the said officers are hereby authorized to order the most expert and fit officer in their respective commands, to perform that duty.

XXII. AND in order that a knowledge of the rules of discipline may be more readily obtained: *Be it enacted*, that the commissioned officers of the several regiments shall meet once in every year within their respective regimental districts, for the purpose of being trained and instructed by the brigade inspectors; the days and places of meeting to be fixed on by the commanding officer of the brigade to which the regiments belong. The officers thus assembled, shall each continue four days and no longer every time they are so called out. The eldest officer present shall call the roll on each day, and report the delinquencies to the succeeding regimental court of enquiry; and every officer failing to attend such meeting, on being summoned, not having a reasonable excuse, to be adjudged of by the court of enquiry, shall forfeit and pay for each day which he shall fail so to attend, five dollars, to be appropriated as the other fines are by this act: *Provided always*, That where there is more than one regiment in a county, all the commissioned officers of the respective regiments in such county shall meet together at such place as may be appointed by the commanding officer of the brigade, for the purpose of being trained and instructed pursuant to this act.

Officers to meet for the purpose of being trained by the brigade inspector once annually.

XXIII. AND to the end that a general knowledge of the rules of discipline established by Congress in their resolution of the twenty-ninth day of March, one thousand seven hundred and seventy-nine, may be diffused, the executive is hereby authorized and required to procure and have a sufficient number of copies of the said rules printed and bound in boards, to afford to every commissioned officer of the militia one copy, and cause them to be delivered to the commanding officers of brigades, to be by them duly distributed without de-

Rules of discipline as established by Congress to be printed and distributed among the several commissioned officers of the militia.

Officer guilty of misbehaviour when on duty to be arrested.

Non-commissioned officers behaving amiss on duty, how punished.

Penalty on by-standers guilty of misconduct at musters, &c.

Forfeitures and penalties imposed for neglect of any duty required by this act.

lay; and upon the death, resignation or removal of any officer, the book delivered him shall revert to the public, and be returned to the commanding officer of the regiment, to be by him delivered to the officer filling the vacancy occasioned by such death, resignation or removal. And for defraying the necessary expense thereof, the executive shall draw on the contingent fund.

XXIV. ANY officer who shall be guilty of disobedience, or other misbehaviour when on duty, or shall at any time be guilty of any conduct unbefitting the character of an officer, shall be put under arrest by his commanding officer, and tried as hereafter shall be directed.

XXV. IF any non-commissioned officer or soldier, shall behave himself disobediently or mutinously when on duty, or before any court or board directed by this act to be held, the commanding officer, court or board, may confine him for the day; and he may moreover be fined at the discretion of the court of enquiry, in any sum not exceeding ten dollars; to be appropriated as other fines imposed by this act.

XXVI. IF any by-stander shall interrupt, molest or insult, any officer or soldier while on duty, at any muster, or shall be guilty of like conduct before any court or board, the commanding officer or such court or board, may cause him to be confined for the day.

XXVII. AND for enforcing obedience to this act, *Be it enacted*, That the following forfeitures and penalties shall be incurred for delinquencies, viz. By a lieutenant colonel commandant or commanding officer of a regiment, for failing to take an oath, to summon any court or board, to attend any court or board, to transmit any recommendation of an officer or officers to the governor, to deliver any commission or commissions, to appoint a battalion muster, or failing to give notice of a regimental muster, to report delinquencies, to make returns of his regiment as by this act directed, shall for each and every such offence or neglect, forfeit and pay a sum not exceeding seventy dollars; for failing to send into actual service any militia legally called for, or to turn out his militia upon an invasion or insurrection of his county, three hundred dollars; by a major, for failing to take an oath, to attend any court or board, to give notice of any regimental or battalion muster, to examine his battalion, to report delinquencies, or to make any return as directed by this act, he shall forfeit and pay for each and every offence and neglect, a sum not exceeding thirty dollars; for failing to call forth from his battalion with due dispatch, any detachment of men or officers as shall be required from time to time by the commanding officer of his regiment, on any call from the governor, invasion of, or insurrection in his county, or requisition from any neighbouring county, one hundred and fifty dollars; by a captain, for failing to take an oath, to attend any court, to inroll his company, to appoint private musters, to give notice of a regimental or battalion muster, to attend any muster armed, to call his roll, examine his company, and report delinquencies, or to allot his company into divisions from one to ten, for a regular routine of duty, or to make any return as directed by this act, he shall forfeit and pay for each and every offence and neglect, a sum not exceeding twenty dollars; failing to call forth such officers and men as shall from time to time be legally called from his company, upon any call from the governor, invasion of, or insurrection in the county, or requisition from an adjacent county, or failing on such occasion to repair to the place of rendezvous, he shall forfeit and pay seventy-five dollars; by a subaltern officer, for failing to take any oath, to attend any court or muster armed as directed, for each and every such offence he shall forfeit and pay a sum not exceeding ten dollars; failing to repair to the place of rendezvous, armed as required, when ordered, upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay fifty dollars, to be adjudged of and determined by the respective regimental courts of enquiry; by a non-commissioned officer, or soldier, for failing to repair to his rendezvous, when ordered, upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay a sum not exceeding eighty dollars, to be adjudged of and determined by their respective battalion courts of enquiry, and moreover shall be inrolled in the class destined to perform the next tour of duty. All officers failing as before mentioned, shall be subject to be arrested, tried, censured or cashiered at the discretion of their respective battalion courts of enquiry. Any non-commissioned officer or soldier, failing to attend at his regimental, battalion or company muster, armed and equipped as the law directs, shall for

feit and pay seventy-five cents. If any non-commissioned officer or private shall be returned as a delinquent in not appearing armed and accoutred as the law directs, the court martial before whom the same shall be tried, may if it appear reasonable remit the fine incurred by him: *Provided*, Every such delinquent who hath a firelock of any kind shall make it appear that he brought the same to the muster. Any private on the ground at a regimental, battalion or company muster, who shall refuse to go into the ranks when required, shall forfeit and pay four dollars.

XXVIII. AND whereas it is necessary that certain tribunals be instituted for the trial of offences as they are to be viewed in a military light, and for enquiring into certain delinquencies and assessing fines: *Be it enacted*, That the Governor or commanding officer of the militia of this state, shall have power, for misconduct within his own knowledge, or upon complaint lodged in writing by any commissioned officer, to arrest and order a court-martial of the state for the trial of the adjutant-general, a major-general, or brigadier-general, to be composed of one major-general, not more than four brigadier-generals, and as many lieutenant-colonel commandants and majors, as shall make up a number not less than thirteen; and such courts-martial shall proceed to hear and determine on all offences under this act, and may censure or cashier any officer so tried, which sentence shall be final, saving an appeal to the Executive. And any major-general or brigadier-general, for misconduct within their own knowledge, or upon complaint lodged in writing by any commissioned officer, shall have power to arrest any lieutenant-colonel commandant, aid-de-camp, brigade inspector and major, or any other inferior officer; and the commanding officer of the division, shall order a court-martial, for the trial of such lieutenant colonel commandant, aid-de-camp, brigade inspector or major, to be composed of one brigadier-general, and as many lieutenant colonel commandants, majors and captains, as shall make up a number not less than thirteen; and such courts-martial shall proceed to hear and determine on all offences under this act, and may censure or cashier such officer, which sentence shall be final; saving to the party an appeal to the Executive. And any brigadier-general, lieutenant colonel commandant, or major, for misconduct in any captain or subaltern within his own knowledge, or upon complaint lodged in writing by any commissioned officer, may arrest such captain or subaltern; and the brigadier or commanding officer of the brigade shall order a brigade court-martial for the trial of such captain or subaltern, to be composed of one or more field-officers, and a sufficient number of captains and subalterns, to make up a number not less than thirteen; and such courts-martial shall proceed to hear and determine on all offences under this act, and may censure or cashier any officer so tried, which sentence shall be final; saving to the party an appeal to the Executive. And in all cases of appeal, the party making the appeal, may demand of the clerk or judge advocate of the court-martial, a full copy of the proceedings had thereon, to be laid before the Executive, who shall determine agreeably to the right of the case. And for obtaining the necessary evidences for the trials aforesaid, the commanding officer of the state, division or brigade, (as the case may be) shall issue his summonses; and every person so summoned, failing to attend, shall be subject to and may be tried by a court-martial; and if an officer, may at the discretion of a court-martial, be cashiered or fined, not exceeding six months pay as by law allowed; and if a non-commissioned officer or soldier, to be reported to the court of enquiry of the regiment to which he shall belong, and be then subject to such fines and penalties as they may think proper to inflict, not exceeding six months pay.

Tribunals instituted for the trial of offences as they are to be viewed in a military light.

XXIX. *AND be it further enacted*, That there shall be battalion courts of enquiry, to be appointed by the commanding officer of the battalion, for the assessment of fines incurred under this act in such battalion, and such courts of enquiry shall be held within fifteen days after each battalion and regimental muster, at or as near as shall be convenient to the place where the last battalion muster was held, and to consist of the commanding officer of the battalion, and the commanding officers of companies, or a majority of them, who shall take the following oath, to be administered by the presiding officer, and afterwards by any other officer of the said court to him, to wit: "I _____

" will truly and faithfully enquire into all delinquencies which appear on the returns to be laid before me, and will assess the fines thereon as shall seem just, with

Battalion courts of enquiry for assessment of fines incurred in such battalion.

Oath to be administered.

Regimental courts of enquiry for the assessment of fines incurred by the officers of the regiment.

Clerks and provost marshals to be appointed—their duties, and how their services shall be compensated.

All fines assessed by virtue of this act, to be collected by the sheriffs of the respective counties, with power of making distress and sale.

Fines arising under this act how appropriated,

Commandants of regiments to provide regimental and battalion colours for his regiment; and music for the several companies therein.

Executive may call forth militia to suppress insurrections and in-

“out favor, partiality or affection. So help me GOD.” The commanding officer of the battalion shall then lay before the said court all delinquencies as directed by this act; whereupon they shall proceed to hear and determine: And there shall moreover be a regimental court of enquiry in each year for the assessment of fines incurred by the officers of the regiment, and such court of enquiry shall be held by appointment of the commanding officer, in not less than ten nor more than twenty days after the last battalion court of enquiry; to consist of the commanding officer of the regiment, battalions and companies, or a majority of them, who shall take an oath in manner and form as prescribed above. The commanding officer of the regiment shall then lay before the said court all delinquencies as directed by this act, whereupon they shall proceed to hear and determine. It shall be the duty of the presiding officer of each and every such court of enquiry, to return to the next regimental court of enquiry, all delinquent officers, failing to attend the preceding court, to be proceeded against according to law. The regimental court of enquiry, may, for good cause shewn, remit any fine imposed by the two preceding battalion courts.—The said court may also exempt any militia man from duty on account of bodily infirmity, and may again direct such person to be enrolled when able to do duty.

XXX. THE respective regimental courts of enquiry, where it has not already been done, shall, at their first court, to be held under this act, appoint, by ballot, a clerk and provost marshal, who shall attend the courts herein before directed to be held. Such clerk shall keep a fair record of the proceedings of such courts, as also of the roster, returned by the several captains or commanding officers of companies, for regular routine of duty, and shall make out for the sheriff, a fair list of all the fines assessed by the regimental and battalion courts, and one other list, which shall be transmitted to the Executive, on or before the first day of May next, after such regimental court was holden in each year. And all other duties required by this act, and, together with the provost marshal, shall receive such allowance, to be paid out of the fines, as the court shall think reasonable.

XXXI. ALL fines to be assessed by virtue of this act, shall be collected by the sheriff of the county, upon a list thereof, certified by the clerk of the court of enquiry, and delivered to the sheriff, on or before the first day of January, in every year; who shall give his receipt therefor, and having deducted a commission of six *per centum*, shall account for, and pay the residue into the public treasury, on or before the first day of October next thereafter, under the same penalties, and subject to the same mode of recovery, as are prescribed by law with respect to the collection of the taxes. And should any person so charged with fines, fail to make payment on or before the first day of May, in any year, the sheriff is hereby authorized to make distress and sale therefor.

XXXII. WHATEVER fines shall be thus paid into the public treasury, by virtue of this act, shall be held as a fund for defraying the salaries of the officers herein after mentioned, and of equipping and furnishing the militia with every necessary apparatus for the defence and security of the state. And the treasurer shall keep a separate book of the same and the expenditures thereof.

XXXIII. THE lieutenant colonel commandant shall cause to be purchased out of the money arising from the fines, a set of colours for each regiment, and also a set of colours for each battalion; he shall also procure in like manner for each company a drum and fife, or bugle horn; and on the colours and drums shall be marked the number of the regiment and the battalion, together with the name of the county to which they belong. And whereas it is represented that sundry captains of companies have already advanced money for the purchase of drums and fifes for the use of their respective companies: *Be it enacted*, That in such cases the sheriff, upon a certificate from the lieutenant colonel commandant of the regiment to which such captain shall belong, shall refund the money to the said captain, which shall have been thus advanced, for which the sheriff shall have credit in the settlement of his account with the auditor. And whereas sundry other charges and expenses are authorized herein: *Be it enacted*, That the sheriff having a draught or draughts from the lieutenant colonel commandant, shall be authorized to discharge the same, for which, as well as all insolvencies duly certified by the clerk of the court of enquiry, he shall be allowed on a settlement between the auditor and sheriff.

XXXIV. *AND be it further enacted*, That the Governor, with the advice of Council, be authorized and empowered, on an invasion or insurrection, or probable prospect thereof, to call forth such a number of the militia, and from such

counties as they may deem proper; and for the accommodation, equipment, and support of the militia, so at any time to be called forth, the Governor, with the advice aforesaid, may appoint such quarter-masters, commissaries, and other staff as to him shall seem proper, and to fix their pay and allowances; and shall also take such measures for procuring, transporting and issuing all orders which may be necessary, as to him shall seem best. Orders for the militia to be called forth as aforesaid, shall be sent to the commanding officers of brigades, with a notification of the place or places of rendezvous, who shall immediately take measures for detaching the same, with the necessary number and ranks of officers by detail and rotation of duty.

XXXV. THE lieutenant colonel commandant or commanding officers of regiments from which detachments are drawn, shall cause to be procured by impressment or otherwise, for each company, a waggon, team, and driver, six axes and six camp kettles or pots of convenient size, all which shall be delivered to the commanding officer of the company, who shall be accountable for returning the same when his tour is over; and the articles aforesaid shall be returned to the owners, who shall be allowed for the use of the same, whatever shall be adjudged by the court hereinafter appointed for enquiring into delinquencies: And to the end that if any article impressed, be lost, the owner may be paid for the same, the lieutenant colonel commandant or commanding officer, shall cause all property by him impressed by virtue of this act, to be valued by two or more freeholders on oath, before the same shall be sent away; and upon proof being made of any article being lost, the valuation thereof shall be allowed without any allowance for the use; and the said allowance shall be certified to the auditor of public accounts. The said court shall make enquiry into the cause of such loss, and if it shall appear that the said loss was occasioned by the misconduct or inattention of any officer, the lieutenant colonel commandant, or commanding officer, is hereby authorised and required to prosecute a suit against such officer for the recovery of damages, for the use of the commonwealth.

XXXVI. IF it shall appear to the Executive upon calling forth the militia as aforesaid, that the necessary number and ranks of officers will not attend the detachments for officering them at the places of rendezvous, the Governor, with the advice of Council, is hereby authorised to appoint such officers as may be necessary from the counties called upon, as they may think proper, to join the detachments so raised.

XXXVII. IF a sudden invasion shall be made into any county in this commonwealth, or in case of an insurrection in any county, the commanding officer of the militia of such county is hereby authorised and required to order out the whole or such part of the militia as he may think necessary, and in such manner as he may think best, for repelling or suppressing such insurrection, and shall call on the commanding officers of regiments in the adjacent counties for such aid as he may think necessary, who shall forthwith in like manner furnish the same.

XXXVIII. WHENEVER any militia shall be called forth into actual service as aforesaid, they shall be governed by the articles of war, which govern the troops of the United States. And courts martial shall be held as therein are directed, to be composed of militia officers only, for the trial of any person in the militia; but to the cashiering of any officer, or capital punishment of any person, the approbation of the executive shall be necessary; and when any militia shall be in actual service of the state, they shall be allowed the same pay and rations as are allowed by law to the militia of the United States.

XXXIX. AND be it further enacted, That the commanding officer of every battalion of militia, shall from time to time, as he shall deem it necessary, appoint an officer, or non-commissioned officer, (as the case may be) and so many men of the militia as to him shall seem necessary, once in every month, (or oftener if thereto required by such officer) to patrol and visit all negro quarters and other places, suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons, as aforesaid, unlawfully assembled, or any others strolling from one plantation to another, without a pass from his or her master, mistress, or overseer, and take them before the next justice of the peace, who if he shall see cause, is hereby required to order every such slave, servant, stroller, or other disorderly person, as aforesaid, to receive any number of lashes not exceeding twenty, on his or her bare back; and in case one company of patrollers shall not be sufficient, more companies may in like

insurrections, and appoint the requisite staff.

Lieutenant colonel commandants of regiments furnishing detachments to procure waggon, team, & driver, and certain camp utensils.

In case of the non-attendance of necessary officers, executive to supply deficiency.

Commanding officer may call out the militia in certain cases.

Militia in actual service to be governed by the articles of war.

Patroles to be appointed under a certain penalty, and by whom.

Officers of the patrolle to make report, and such patrolles thereupon to be compensated.

Penalty on serjeants failing to notify or attend—and on patrolles to attend such patrolle.

Adjutant general and brigade inspectors, their pay; the former to keep an office in the city of Richmond; penalty on the latter for failing to attend the regimental musters.

Resignations how made, and vacancies occasioned thereby supplied.

Arms exempted from distress and executions, &c.

Militia of incorporated towns governed as other militia.

Fines on infants and apprentices, by whom to be paid.

Lieutenant colonel commandants to appoint a regimental staff—Duty of and allowance to the adjutant.

Persons to be appointed and paid for the conveyance of orders relating to the militia.

The governor to cause this, the acts of congress relating to the militia, and the articles of war, to be printed in such number as he may deem requisite.

manner be ordered for the same service. And after every patrolle, the officer of every party shall once in every month at least, return a report in writing upon oath, to the court of the county in which he shall reside, and if the said courts shall judge the said patrolles to have performed their duty according to law, they are thereupon empowered to levy seventy-five cents for every twelve hours each of them shall so patrolle: and every officer failing to appoint patrolles according to the directions of this act, shall forfeit and pay twenty dollars for every such failure; and every serjeant failing to notify the number of privates ordered by such officer, or to attend such patrolle, shall forfeit and pay for every such failure three dollars, and every patrolle failing to attend such patrolle and do his duty, shall forfeit and pay one dollar: Which fines shall be laid, collected, accounted for, and appropriated as is herein directed, for laying, accounting for and appropriating the several fines and penalties by this act directed.

XL. *AND be it further enacted*, That the adjutant-general shall be allowed four hundred dollars per year, and that each brigade inspector shall be allowed two hundred dollars per year, for the duties herein required of them, to be paid by the treasurer on warrant from the auditor, who is hereby authorized and required to grant the same quarter yearly, on proper application being made. *And be it further enacted*, That the adjutant general shall, and he is hereby required to establish and keep, either in person, or by deputy, an office in the city of Richmond, for the necessary transaction of the business annexed to that office. And every brigade inspector failing to attend the several regimental musters of the brigade, shall pay for every such failure fifty dollars.

XLI. THE commanding officers of regiments are hereby empowered to receive the commission of any officer of his regiment who may think proper to resign, and shall notify such resignation to the next succeeding court, in order that such vacancy may be supplied.

XLII. ALL arms, ammunition, and equipments of the militia shall be exempted from executions and distresses at all times, and their persons from arrests and process in civil cases, while going to, continuing at, or returning from musters, and while in actual service.

XLIII. THE militia of the city of Williamsburg, city of Richmond, and borough of Norfolk, shall have their officers appointed, and be under the same rules and regulations as the different counties.

XLIV. THE fines and penalties incurred by infants and apprentices for the breach or neglect of their duty in any particular service by law required of them, shall be paid by the parent, guardian, or master.

XLV. IT shall be lawful for the lieutenant colonel commandants, and they are hereby required to appoint a regimental staff, to consist of one adjutant, one quarter-master, one pay-master, one surgeon, one surgeon's mate. And it shall be the duty of the adjutant, to attend the several regimental and battalion musters, as also the meeting of the officers within his regiment, to assist in the necessary training of the militia, and shall be entitled to receive for such service such compensation as shall be adjudged and allowed by the regimental court of enquiry, to be paid by order of the commanding officer of the regiment out of the fines to be collected by virtue of this act.

XLVI. And whereas inconveniences have arisen from the want of a safe and speedy conveyance of orders from the major and brigadier generals, to the commanding officers of corps, respecting the militia of this commonwealth: For remedy whereof, *Be it enacted*, That the major-generals and brigadier-generals are hereby empowered and authorized to employ some person within their respective districts, to convey all such orders, who shall be exempt from all other militia duty, and shall receive such compensation as the court of enquiry of the regiment in which district he shall reside shall think proper, on his producing a certificate to the court of his having discharged the said services.

XLVII. *And be it further enacted*, That the Governor shall cause a sufficient number of copies of this law, together with the act of Congress, "*More effectually to provide for the national defence by establishing an uniform militia throughout the United States*," and the act of Congress, "*For calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions*," and the articles of war, to be printed and distributed throughout this state, so that every general and field officer, and every brigade inspector and captain, be furnished with one copy: And whereas the establishment of music

in the several corps of militia would be of great utility; to this end therefore, *Be it enacted*, That the commanding officers of regiments shall cause the drummers and fifers of their respective regiments to meet at the same times and places that commissioned officers are required to meet, for the purpose of being trained by the brigade inspector, there to be instructed in their respective branches of music, for which purpose the commanding officer of the regiment may employ such persons as he may think proper, and capable to instruct such drummers and fifers. The person so to be employed by the commanding officers of regiments shall be allowed while engaged in that service two dollars *per* day, and each drummer and fifer shall be allowed during the time they are so convened one dollar *per* day, to be paid out of the money arising from fines.

Drums and fifes to meet when commissioned officers meet, and to be compensated.

XLVIII. *AND be it further enacted*, That all acts and parts of acts, coming within the purview of this act, shall be, and are hereby repealed.

Repealing clause,

XLIX. THIS act shall commence and be in force, from and after the first day of February next.

Commencement of this act.

CHAP. CLXXXIII.

An Act to continue and amend the act, intituled, An act to continue and amend the act, intituled, An act for further continuing and amending the act, intituled, An act for reducing into one, the several acts concerning Executions, and for the relief of Insolvent Debtors.

[Passed the 17th of December, 1795.]

I. **B**E it enacted, That the act, intituled, *An act for further continuing and amending the act, intituled, An act for reducing into one, the several acts concerning executions, and for the relief of insolvent debtors*, passed on the tenth day of December, in the year of our lord, one thousand seven hundred and ninety-three, and one other act to continue and amend the said act, passed on the twenty-fourth day of December, in the year of our lord, one thousand seven hundred and ninety-four, shall be, and the same are hereby made perpetual, except so much thereof, as relates to replevy bonds to be entered into by the debtor or debtors in case the goods or other estate taken in execution cannot be sold for three fourths of the value thereof, and except also so much thereof, as relates to other bonds to be taken on twelve months credit from the purchasers of the said goods and estate, in case the same shall not be replevied by the said debtor or debtors, and the proceedings on the said replevy bonds, and bonds taken from purchasers as aforesaid, subject to the regulations herein-after made.

Acts herein recited made perpetual under

Certain exceptions.

II. EVERY bond to be entered into by the debtor or debtors to replevy, or by purchasers in case of a failure of such replevin, for property taken by virtue of any execution, which shall issue after the last day of December, in the year of our lord, one thousand seven hundred and ninety-five, and before the first day of June, in the year of our lord, one thousand seven hundred and ninety-six, shall be made payable on or before the expiration of nine calendar months from the date thereof. Every such bond to be entered into on any execution which shall issue between the last day of May, in the year of our lord, one thousand seven hundred and ninety-six, and the first day of January, in the year of our lord, one thousand seven hundred and ninety-seven, shall be made payable on or before the expiration of six calendar months from the date thereof. And every such bond to be entered into on any execution which shall issue between the last day of December, in the year of our lord, one thousand seven hundred and ninety-six, and the first day of July, in the year of our lord, one thousand seven hundred and ninety-seven, shall be made payable on or before the expiration of three calendar months from the date thereof. All which said bonds to be entered into by virtue of this act, shall be taken in the same manner and form, save only as to the time of payment, as the like bonds upon twelve months credit were directed to be taken in the afore-mentioned acts; and the like remedies in all respects shall be had thereon.

Replevin and other bonds entered into for property taken under any execution issued after a fixed period, how and when to be made payable.

III. AFTER the last day of July, in the year of our lord one thousand seven hundred and ninety-seven, so much of the afore-mentioned acts as permits debtors to replevy their goods taken in execution, or in case of a failure of such replevin, authorises the sheriff or other officer to sell the said goods on credit, shall so far cease, that it shall not be lawful for any sheriff or other officer to receive any such bonds for property taken by virtue of any execution, which shall

No bond to be received for property taken and sold under any execution which may issue after the last day of July, in the year 1797.

issue after the said last day of July, in the year of our lord, one thousand seven hundred and ninety-seven, aforesaid; but the creditor shall still be authorised to pursue the same remedy, for obtaining the money or tobacco which may remain or become due on any such bond, as if every part of the said recited acts had continued in full force.

Courts on the motion of any assignor or assignors of any twelve months bond, authorised to award execution against the original obligor or obligors,

IV. *AND be it further enacted*, That where it hath or shall hereafter happen, that any assignee or assignees, their executors or administrators, hath, or shall issue an execution, against any assignor or assignors, or their executors or administrators, on any twelve months bond taken under the aforesaid acts, and the sheriff or other officer hath, shall or may make the money or tobacco, or any part thereof on such execution, in every such case, it shall and may be lawful for the court from whose office such execution shall or may have issued, upon the motion of any such assignor or assignors, their executors or administrators, to award execution against the original obligor or obligors, in such bond, their executors or administrators, or either of them, or against any prior assignor or assignors of said bond, their executors or administrators, or either of them, for all and every such sum of money or tobacco so paid, with legal interest thereon, from the time the same was or shall have been paid, and the costs: *Provided*, such party against whom such motion shall or may be made, have ten days previous notice thereof; and upon every such execution the sheriff or other officer shall take no security. And for the better direction of such officer, the clerk shall endorse upon every such execution, "That no security of any kind is to be taken."

Proviso.

Assignor may have like remedy against any prior assignor of any such bond.

V. *AND be it further enacted*, That in every case where any assignor or assignors of such bond, or their executors or administrators, shall suffer in manner aforesaid, he or they shall have the like remedy against any prior assignor or assignors of such bond, if any such there be, or their legal representatives, or either of them, as well as against the original obligor or obligors, and their legal representatives, or either of them.

CHAP. CLXXXIV.

An Act to amend the act, intituled, An act for the safe keeping of prisoners committed under the authority of the United States, into any of the jails of this commonwealth.

[Passed the 11th of December, 1795.]

Preamble.

WHEREAS the marshal of the district of Virginia, and his deputies, have conceived themselves to be authorised by virtue of an act of Assembly, passed in the year one thousand seven hundred and eighty-nine, intituled, "*An act for the safe keeping of prisoners committed under the authority of the United States into any of the jails of this commonwealth*," to convey debtors and other persons arrested on mesne process, or under execution, to jails at a great distance from their families and homes: And whereas it is highly improper that a discretion so mischievous and oppressive as to be denied to the citizens of this commonwealth, should be exercised in favor of the subjects of foreign nations:

Persons arrested by the marshal or his deputies what jails to be conveyed to.

I. *BE it therefore enacted*, That henceforward no debtor or other person arrested on mesne process, or under execution, by the marshal or any of his deputies, shall be conveyed to any other jail than that of the corporation, county, or state judiciary district within which such debtor, or other person may reside. So much of the above recited act as comes within the purview of this act, shall be, and the same is hereby repealed.

Commencement of this act

II. *THIS act shall commence and be in force, from and after the passing thereof.*

CHAP. CLXXXV.

An Act supplemental to the act, intituled, An act to amend the act prescribing the mode of ascertaining the taxable property within the commonwealth, and of collecting the public revenue.

[Passed the 25th of December, 1795.]

Preamble.

WHEREAS it is represented, that there are many tracts of patented land in this commonwealth, which it is not in the power of the common-

ers appointed agreeably to the "Act, intituled, *An act prescribing the mode of ascertaining the taxable property within the commonwealth, and of collecting the public revenue,*" precisely to ascertain and value agreeably to the meaning of the said recited act:

I. *BE it therefore enacted, by the General Assembly,* That in all cases where the commissioners shall not be able to find any lands subject to taxation, as aforesaid, it shall be their duty, and they are hereby required and directed, to publish a list of all such lands at the door of their respective court-houses, at least three several court days successively, and in case the owner or owners, his, her, or their agent or attorney, shall not within one month thereafter, shew the same to the said commissioners, they shall proceed to tax the said lands, agreeably to the best information they can obtain, and class the same accordingly; any thing in any law to the contrary notwithstanding.

Commissioners when unable to find lands subject to taxation, shall publish and proceed to tax the same from the best information attainable.

II. *THIS act shall commence in force, from the passing thereof.*

Commencement of this act.

CHAP. CLXXXVI.

An Act for collecting and publishing all the acts of the legislature concerning Lands.

[Passed the 4th of December, 1795.]

WHEREAS it is represented to the present General Assembly, that an opportunity now exists of collecting all the acts of the legislature, which in any manner relate to the landed property within the commonwealth: And whereas for the preservation of a multitude of rightful titles to land, it is necessary and expedient that a collection of such laws should be made and printed:

Preamble.

I. *BE it enacted, by the General Assembly, and it is hereby enacted,* That a collation be made of all and singular the laws, and parts and clauses of every law, whether private or public, relative to all and singular the lands, tenements, and hereditaments whatsoever, or any of them within this commonwealth, at any time heretofore passed, and enacted, from the first settlement of Virginia, until the first day of October, in the year one thousand seven hundred and ninety-three, which shall be printed and published in octavo, well bound in calf skin.

Laws concerning land, collation of to be made and published.

II. *AND be it further enacted,* That George Wythe, John Brown, John Marshall, Bushrod Washington, and John Wickham, or any three of them be, and hereby are requested and authorized, to collate the said laws, and to controul, direct, superintend and revise the edition thereof; and for this purpose to appoint a clerk to assist in the work, and especially in the making marginal notes, and an index thereto, who shall be paid a reasonable compensation for his service, to be determined by the persons herein before named, and approved by the Executive.

Persons authorized to make the said collation and appoint a clerk, and determine his allowance, to be approved by the executive.

III. *AND be it further enacted,* That the edition consist of at least one thousand copies, one of which shall be sent or delivered by the executive to the clerk of each house of the General Assembly, one to the clerk of the Executive for their use, one to the register of the land office, and one to each and every clerk of any court of record in the commonwealth, and the residue shall and may be sold, and the proceeds paid by the printer into the public treasury, for and on account of the commonwealth, for the purpose of reimbursing the public treasury, the costs and expenses of the said edition, which shall and may be paid and advanced, out of the contingent fund.

Number of copies and how disseminated and disposed of.

IV. *AND be it further enacted,* That until a sum sufficient for reimbursing the costs aforesaid shall be raised from the sale as aforesaid directed, it shall not be lawful for the printer directly or indirectly, or any other person, to vend or suffer to be sold any of the said books, otherwise than for the use of the said commonwealth, as aforesaid; and the printer to be employed shall take an oath and give bond and security at the time of contract, well and truly to demean himself in all things according to the directions of this act, which oath may be taken before any magistrate and certified and transmitted with the bond to the Executive.

Until the costs are reimbursed, printer and other persons prohibited from selling any of the said books, and to take an oath and enter into bond accordingly.

V. *THIS act shall commence and be in force, from and after the passing thereof.*

Commencement of this act.

CHAP. CLXXXVII.

An Act to amend the act for reducing into one, the several acts concerning the Land-Office; ascertaining the terms and manner of granting waste and unappropriated Lands; settling the titles and bounds of Lands, directing the mode of proceffioning; and prescribing the duty of Surveyors.

[Passed the 28th of December, 1795.]

Preamble.

WHEREAS it has been represented to this General Assembly, that the act, "For reducing into one the several acts concerning the Land-Office; ascertaining the terms and manner of granting waste and unappropriated Lands; directing the mode of proceffioning; and prescribing the duty of Surveyors," is imperfect and productive of much inconvenience to this commonwealth and its citizens: For remedy whereof,

Register inhibited from receiving certain surveys.

I. *BE it enacted*, That the register of the land-office be, and he is hereby restrained from receiving in future into his office, any plat and certificate of survey which evidently comprehend the rights of others, and bear date subsequent to the first day of January next, notwithstanding any deductions or reservations; and all such surveys hereafter made, shall henceforth be deemed illegal and void; but the party shall nevertheless retain all such right as he may have derived under the act aforesaid, by means of his location upon any waste and unappropriated land within this commonwealth.

Warrants to accompany surveys.

II. *BE it enacted*, That the warrant or warrants, on which a survey is founded, shall accompany the same to the land-office, with a statement on the back of the warrant or warrants from under the hand of the principal surveyor, specifying the location or locations made thereon, and of the quantity actually satisfied by survey. And should more than one survey be made by virtue of one warrant, the same shall accompany the first survey, and a certificate the after survey, purporting in what previous survey the same was sent; and in case the warrant or warrants so sent, be not wholly located, then the claimant or claimants shall procure an exchange warrant or warrants from the register, as he, she, or they may elect for the residue. And in future no surveyor shall be authorized to receive locations or entries in his office upon a certificate of another surveyor.

Surveyors not to receive entries, &c. on certificate of another.

Register to issue grants, to assignees of surveys, the assignment being attested.

III. *AND be it further enacted*, That on all plats and certificates of survey already returned to the register's office, or which shall hereafter be returned, that the register issue grants in the name of the person or persons, or their assignees, in whose name the survey is made, and to no other person, and that he shall not deliver the grants to any person but those in whose name they shall issue, or their order attested by one witness, which orders he shall carefully file and preserve.

New record books to be opened.

IV. *AND be it further enacted*, That the present register proceed without delay, to open new records and registers, for the recording grants, plats and certificates of survey, and the registering all warrants and titles issued in pursuance thereof, under the last act of Assembly for disposing of waste and unappropriated lands in this commonwealth.

Register, his pay. The executive to employ a sufficient number of clerks; such clerks how compensated.

V. *AND be it further enacted*, That the register of the land-office for his services, be allowed the sum of three hundred pounds *per annum*, and the Executive are hereby empowered from time to time to regulate the number of clerks which may be necessary to be employed by the register for performing the duties of that office, the principal one of whom shall be allowed the sum of five hundred dollars *per annum*, and the residue of them such compensation as the Executive may deem reasonable and adequate for their services; to be paid in like manner as the rest of the civil list are paid.

Part of act herein recited, further continued, and how construed.

VI. *BE it enacted*, That the first section of the act passed at the last session of Assembly, intituled, "An act giving further time to the owners of certain surveys to return the plats and certificates thereof, into the land-office, and a further time to the owners of entries on the western waters to survey the same," be, and the same is hereby continued for twelve months from and after the thirty-first day of December, one thousand seven hundred and ninety-five: *Be it enacted*, That so much of the above recited clause as relates to lands on the eastern waters, shall be so construed, as only to authorize the register of the land-office to receive plats and certificates of survey made on locations under the commonwealth's land warrants.

VII. *BE it enacted*, That where it has happened that any county court within this commonwealth, have failed to appoint processioners according to the above recited act, in consequence of the acts of Assembly not having been received by them in due time, it shall be lawful for such county court, between the first day of April and the first day of September, which shall be in the year of our lord, one thousand seven hundred and ninety-six, to appoint processioners according to the directions of the above recited act, to remain in office until the expiration of the time for which such processioners were directed to remain in office by the said recited law; and from and after that time to be appointed between the periods, and in manner therein directed. Each processioner so appointed, and all others appointed, and to be appointed, under this, or the said recited act, shall be allowed by the court of his county, fifty cents, for every day he shall be employed; and in case of the death, resignation, or removal from office of any such processioner, the court of the county where such vacancy shall happen are hereby authorized to appoint a successor.

Processioners, how appointed, paid, &c.

VIII. *BE it enacted*, That wherever it shall happen that any tract of land within this commonwealth, shall lie in two precincts, and within the same county, such tract of land thus situated shall be processioned in that precinct where the beginning shall be: *Provided nevertheless*, that the operation of this and the above recited act, so far as they respect settling the titles and bounds, and directing the mode of processioning lands on the west side of the Blue Ridge, shall be suspended for and during the term of four years, from and after the passage of this act.

Tract of land lying in two precincts, to be processioned, where the beginning shall be.

IX. AND whereas by the fifth section of the act first recited, a consideration of one dollar *per* acre is required for all lands indiscriminately, which may have become forfeited to this commonwealth, for the non-payment of the taxes due thereon, which hath been found, to be highly injurious to the said commonwealth, by reason of the difference of its value in different parts of this commonwealth: For remedy whereof, *Be it enacted*, That whensoever any person shall in future be desirous of locating such lands, they shall in the first instance procure from the commissioners of the land tax, within whose precincts the same may lie, a certificate of the price at which such lands stand charged, which certificate being delivered to the auditor, shall entitle the party to an order on the treasurer for the receipt of so much money as such lands may stand charged at, which being paid, and other requisites of the said act complied with, shall entitle the party to all such right as the commonwealth may have had therein by means of the non-payment of such taxes.

Procedure in locating lands, forfeited for the non payment of taxes.

X. ALL acts and parts of acts, coming within the purview of this act, shall and are hereby repealed.

Repealing clause.

XI. THIS act shall commence and be in force, from and after the first day of January next.

Commencement of this act.

CHAP. CLXXXVIII.

An Act to amend an act, intituled, An act concerning Grand-Juries, Petit-Juries, and Venire-Men.

[Passed the 2d of December, 1795.]

WHEREAS by an act, intituled, "*An act concerning grand-juries, petit-juries, and venire-men*," it is amongst other things enacted, that "The sheriff of each county, and the serjeants of the cities of Williamsburg, Richmond, and the borough of Norfolk, and other corporations within this commonwealth, shall before every quarter session of the county or corporation courts respectively, summon twenty-four freeholders of his county or corporation, not being ordinary keepers, constables, surveyors of highways, or owners or occupiers of mills, out of which number shall be impannelled a grand-jury of sixteen at least, who shall be sworn to enquire into the breach of penal laws, and make presentment of the offenders."

Preamble.

I. AND whereas no provision is made by the said act for the case where a smaller number (of those who have been summoned) than sixteen should attend: *Be it enacted*, That if a sufficient number of the said freeholders should not attend on the first day of the county or corporation court, the sheriff or serjeant, (as the case may be) shall summon from the by-standing freeholders, qualified according to law, a sufficient number, to form, together with such of the first mentioned freeholders as do attend, a grand-jury.

By-standers may in certain cases be summoned on grand-juries.

On presentment of an offence on the knowledge of two jurors, their names to be endorsed, so also the name of a witness.

Certain persons not disqualified, to serve as grand-jurors in certain courts.

Commencement of this act.

II. *AND be it further enacted*, That when a presentment shall be made of any offence by the grand-jury, upon the knowledge of two of their body, the names of the grand-jurymen giving the information, shall be endorsed at the foot of the presentment; and when any presentment, information, or indictment, shall be made by the grand-jury, of any offence upon the testimony of a witness, called upon by the court or the grand-jury, to give testimony concerning the same, the name of such witness shall likewise be endorsed thereon; but in none of the cases above-mentioned the person or persons so informing, be liable to costs.

III. *AND be it further enacted*, That nothing in this or the above recited act shall be so construed as to disqualify any ordinary keeper, surveyor of a highway, or owner or occupier of a mill, from serving as grand-jurors in any of the district courts or general court of this commonwealth.

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CLXXXIX.

An Act to amend an act, intituled, An act to reduce into one, the several acts concerning slaves, free negroes, and mulattoes, and for other purposes.

[Passed the 25th of December, 1795.]

Preamble.

WHEREAS great and alarming mischiefs have arisen in other states of this Union, and are likely to arise in this by voluntary associations of individuals, who under cover of effecting that justice towards persons unwarrantably held in slavery, which the sovereignty and duty of society alone ought to afford; have in many instances been the means of depriving masters of their property in slaves, and in others occasioned them heavy expenses in tedious and unfounded law suits: To the end that a plain and easy mode may be pointed out by law for the recovery of freedom where it is unjustly and illegally denied, and that all such practices may in future be made useless and punished:

Procedure on the part of persons illegally detained in slavery, &c. and proceedings by courts or magistrates thereupon.

I. *BE it enacted*, That when any person shall conceive himself or herself illegally detained as a slave in the possession of another, it shall and may be lawful for such person to make complaint thereof either to a magistrate out of court, or to the court of the district, county, or corporation where he or she shall reside, and not elsewhere. When the complaint shall be made to a magistrate of such illegal detention, it shall be the duty of the said magistrate forthwith to issue his warrant, summoning the owner or possessor of such complainant, to appear before him or some other magistrate of the county, to answer the complaint so made, and upon his appearance shall compel him to give bond with security, equal at least to the full value of such complainant, conditioned that he shall suffer him or her to appear at the next court to be held for the district, county, or corporation wherein he or she resides, for the purpose of petitioning the said court to be allowed to sue therein *in forma pauperis*, for the recovery of his or her freedom; and if such master or holder shall fail or deny to give security as aforesaid, such magistrate shall order the complainant into the custody of the officer serving the warrant, to be kept by him safely at the expense of such master or holder, until the sitting of the first court that shall happen after such judgment by him given, and produce him or her before such court.

Petition for freedom to recite material facts; counsel to be appointed who shall report the case and his opinion before process shall issue.

II. *WHEN* a petition shall be offered to the court of any district, county, or corporation, by any person or persons so complaining, it shall state the material facts of the case, which being proved by affidavit or otherwise, to the satisfaction of such court, the petitioner shall obtain counsel, to be assigned by the said court, who, without fee or reward, shall prosecute the suit of such complainant: But before process shall issue upon the said petition, the counsel so appointed shall make an exact statement to the court, of the circumstances of the case, with his opinion thereupon, and unless from such circumstances and opinion, the court shall see manifest reason to deny their interference, they shall order their clerk to issue process against the owner, to appear and answer the complaint, and in the mean time, that such complainant shall be in custody of the sheriff, until the owner shall give bond with security, either in court, or with the clerk of the court, to have him or her forthcoming to answer the judgment of the court; in which case the complainant shall be returned into possession of the owner.

III. *AND be it further enacted*, That if any person or persons, shall be found aiding, abetting, or maintaining any person in the prosecution of a suit upon a petition as aforesaid, and such person or persons shall fail to establish his or their claim to freedom, every person so found aiding, abetting, or maintaining, shall forfeit and pay to the owner of such slave, or to the person who shall prosecute for the same, the sum of one hundred dollars, for every person so complaining; to be recovered by action of debt or information in any court of record within this commonwealth, and moreover be liable to an action on the case for damages arising therefrom, to the party grieved thereby.

Penalty on persons aiding in the prosecution of such petition in certain cases.

IV. *AND* whereas it is doubted whether a widow who shall within one year from the death of her husband, declare, in the manner prescribed by law, that she will not take or accept the provision made for her by her husband's will, or any part thereof, and renounce all benefit which she might claim by the same will, be entitled to one third part of the slaves whereof her husband died possessed, and which by his will are directed to be emancipated and set free;—for removing such doubts in future, and for a plain declaration of the law herein: *Be it enacted*, That in all such cases the widow shall be entitled to one third part of the slaves whereof her husband died possessed, notwithstanding they may be emancipated by his will: *Provided nevertheless*, that where part of the slaves only shall be emancipated, the widow's part shall be taken out of those which are not set free, if there be enough to make one third part of the whole number whereof the husband died possessed: And the widow in all such cases shall recover by preferring her bill in chancery against the executor or administrator, with the will annexed, one third part of such slaves, which one third so to be allotted to her, shall be ascertained by calling lot: *Provided nevertheless*, that in all such cases where the personal estate of the husband, after payment of debts and just expenses, shall be sufficient to compensate the widow for the value of her third part of the slaves whereof her husband died possessed, the executor or administrator, with the will annexed, shall pay to her such sum as shall be equivalent to her life estate in one third part of such slaves; which sum shall be ascertained by persons to be appointed for that purpose by the court, upon the application of the parties.

Widow's dower saved in slaves, although emancipated by husband's will.

Proviso.

Mode of recovery of such slaves.

Proviso.

V. *BE it also enacted*, That if any person shall make, forge, or counterfeit, or cause to be made, forged, or counterfeited, or willingly act, or assist in the making, forging, or counterfeiting any writing whatsoever, whereby any slave or servant of another, without the approbation or consent of the owner, master, or mistress of such slave or servant shall be declared to be or intended to be emancipated, or shall be suffered to go at large, or pass as a free person for any space of time, every person so offending and thereof legally convicted, shall forfeit and pay the sum of two hundred dollars, and suffer one year's imprisonment without bail or mainprize.

Penalty on persons convicted of forging, &c. or aiding, &c. in forging instruments of writing whereby slaves may pass as free,

VI. *THIS* act shall commence and be in force, from and after the first day of January, one thousand seven hundred and ninety-six.

Commencement of this act.

CHAP. CXC.

An Act prescribing a mode for making a Title to the Purchasers of Lands heretofore sold by Sheriffs for arrears of Taxes.

[Passed the 12th of December, 1795.]

I. *BE it enacted*, That in all sales of lands heretofore made according to law, on account of arrearages of public taxes, by any sheriff or other officer who may have departed this life before conveyance thereof to the purchaser or purchasers, and in which cases, conveyances ought yet to be made, it shall and may be lawful for the sheriff of the county, where the land lies, now in office, or his successor, to convey the same to the purchaser or purchasers, or his or their heirs or assigns, in as full and ample manner as the sheriff or other officer who made the sale, might or should have done, which conveyance shall recite the sale and consideration, and shall be effectual for passing to the purchaser or purchasers, or his or their heirs or assigns, all the estate and interest which the debtor or commonwealth had or might lawfully part with in the lands so sold as aforesaid.

Title to the purchasers of lands heretofore sold for arrears of taxes, in case of the death of the officer who sold the same, how made.

II. *THIS* act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXCI.

An Act to explain and amend the act prescribing a method of protesting inland bills of exchange, and allowing assignees of obligations to bring actions thereupon in their own names.

[Passed the 28th of December, 1795.]

Drafts of money by a resident of this, on any person in the United States, declared inland bills, subject in certain cases to damages.

I. **B**E it enacted by the General Assembly, That all bills of exchange, or drafts for money in the nature of bills of exchange, drawn by any person or persons residing in this state, on any person or persons in the United States, shall be considered in all cases whatsoever as inland bills of exchange; and if such bill of exchange or draft shall be protested for non-acceptance or non-payment, the drawer or indorser shall be subject to the payment of one *per centum* damages thereon, and the bill of exchange or draft shall carry an interest of five *per centum per annum* from the date of the protest, until the money therein drawn for, shall be fully satisfied and paid; any thing in any law to the contrary notwithstanding.

Suits maintainable in the name of an assignee of any bond, bill, or obligation whatever.

II. *AND be it further enacted*, That a suit may be maintained in the name of an assignee or assignees on any bond, bill, or obligation, whatever, in like manner as such suit may be maintained by the assignee or assignees of a bond, bill, or obligation for the payment of money or tobacco.

Commencement of this Act.

III. THIS act shall be in force and have effect from and after the first day of March next.

CHAP. CXCII.

An Act to amend the Act, intituled, An Act reducing into one, the several Acts concerning the Establishment, Jurisdiction, and Powers of District Courts.

[Passed the 25th of December, 1795.]

Preambles

WHEREAS in the construction of the act, intituled, "*An act reducing into one, the several acts concerning the establishment, jurisdiction, and powers of the district courts,*" it hath been held that the judges of the general court cannot attend, or hold a district court, except in such districts only, as they may be respectively allotted to, which construction hath been attended with some inconvenience:

Judges of the General Court may attend and hold a District Court in any District.

I. *BE it therefore enacted by the General Assembly*, That from and after the passing of this act, it shall be lawful for the judges of the general court, or either of them, notwithstanding any allotment heretofore made, or hereafter to be made among them, to attend and hold a district court pursuant to the directions of the said recited act, in any other district than those to which they shall be respectively allotted: *Provided*, the judges allotted to such district, shall fail to attend the same; any thing in the said act to the contrary, or seeming to the contrary notwithstanding: *And provided also*, that when such allotments shall be made, no judge shall exchange the district to which he is allotted.

Proviso.

CHAP. CXCIH.

An Act to amend the Act to reduce into one, all the acts and parts of Acts relating to the appointment and duties of sheriffs.

[Passed the 24th of December, 1795.]

When all the justices of a county shall refuse the sheriffalty thereof the court to recommend two freeholders.

I. **B**E it enacted by the General Assembly, and it is hereby enacted, That when from any cause the whole number of the justices of the peace in commission for any county in this commonwealth, shall refuse to accept the office of high sheriff in any county; that then it shall be the duty of the county court forthwith to recommend to the Executive, two honest and substantial freeholders residing in such county, willing to accept the said office, one of whom shall be commissioned by the Governor, with the advice of Council, as high sheriff for the respective county, to serve in the said capacity for the term of one year from the date of the commission.

Person thus commissioned to have same emoluments and be subject to like penalties as other sheriffs.

II. *AND be it also enacted*, That any person so as above commissioned may be continued in office for the same length of time, that sheriffs may now be continued therein: and that he shall be subject to the same penalties and remedies, and be entitled to the same privileges and commissions, as sheriffs are now subject and entitled to by law.

III. AND where no person will accept the appointment of sheriff in his county, the Governor, with advice of Council, may on recommendation from the county court, appoint any person willing to accept the same, residing within, and being a citizen of this commonwealth, who shall be commissioned, and be liable to the same fines and penalties as sheriffs are now subject and entitled to by law.

Where no person will accept sheriffalty, executive to appoint.

IV. AND be it further enacted, That all sheriffs now in office, as well as those hereafter commissioned, shall at the end of the two years which they shall have acted, receive of the treasurer of this commonwealth a commission of two and a half per cent. over and above the commission heretofore allowed by law, on the amount of the taxes paid into the treasury: *Provided*, they shall have annually, faithfully, and punctually paid into the treasury the full amount of the dues from the county for which they were sheriff.

Additional per centum allowed sheriffs.

Proviso:

V. AND be it further enacted, That if any sheriff who shall have punctually paid into the treasury the full amount of all the public dues from his county as aforesaid, shall die previous to the end of the second year, for which he was appointed, that his legal representatives shall be entitled to receive the aforesaid additional commissions.

Like emolument extended to his representatives in case of death.

VI. AND be it further enacted, That the lands of deputy sheriffs, and their securities, shall be bound to the high sheriffs in like manner as the lands of the high sheriffs are bound to the commonwealth; and it shall be lawful for the general court, the district or county courts, to award a like execution against the said lands, on the motion of such high sheriff, his executors or administrators to that which would have been issued on behalf of the commonwealth: *Provided*, that ten days previous notice shall be given to the said deputy and his securities, their heirs or devisees, as the case may be.

Lands of deputy sheriffs and their securities bound to high sheriffs.

VII. AND be it further enacted, That whensoever the lands of any deputy sheriff would have been bound for any debt due to the high sheriff, they shall be bound in like manner to the security or securities, their executors or administrators, who may have paid the whole or a part of such debt, and it shall be lawful for the general court or district courts to award a like execution against the said lands on the motion of such securities, to that which would have been issued on behalf of the high sheriff: *Provided*, that ten days previous notice shall be given to the principal, his heir, or devisee, as the case may be,

Lands of deputy sheriffs bound to their securities.

Proviso.

VIII. AND whereas in the twenty-eighth section of the act, intituled "An act to reduce into one, all acts and parts of acts relating to the appointment and duties of sheriffs," which gives a remedy to the security or securities of high sheriffs, where they may have paid the whole or any part of a debt due to the commonwealth from his or their principal, it is not provided that the said remedy be had by the executors or administrators of such security: *Be it therefore enacted*, That the same remedy in the act aforesaid given to the securities of a high sheriff, shall be, and is hereby given to their executors and administrators.

Remedy given by law to securities of high sheriffs extended to executors, &c. of securities.

IX. THIS act shall commence and be in force, from and after the first day of January, in the year of our Lord, one thousand seven hundred and ninety-six.

Commencement of this Act.

CHAP. CXCIV.

An Act, to amend an act, intituled, An Act reducing into one the several Acts to oblige vessels coming from foreign parts to perform quarantine.

[Passed the 19th of December, 1795.]

WHEREAS by the existing laws of this commonwealth, to "oblige vessels coming from foreign parts to perform quarantine," the Executive are not authorised to designate more than one place for that purpose, which has been found by experience to be attended with much inconvenience and delay:

Preamble.

I. BE it therefore enacted, by the General Assembly, That in addition to the place pointed out by the Governor at the mouth of Elizabeth river, it shall be lawful for him, and he is hereby empowered, with the advice of council, to establish some other place in the river Patowmac, as near the head of the tide water, as shall be considered convenient and safe, and at any other place or places along the sea board of this commonwealth, as shall be deemed necessary and expedient; and that he shall cause to be erected at the public expense at all such places so pointed out as proper for the performance of quarantine, sufficient buildings for the safe keeping of the goods or merchandise which it

Governor to decide on places suitable for performance of quarantine and cause house to be erected thereon for purposes herein mentioned.

Empowered also to contract for land necessary therefor.

Superintendants may enforce the laws of quarantine in certain cases, and forthwith inform Executive.

Infected places within this commonwealth, subject as foreign places to laws of quarantine.

Commencement of this act.

may be necessary to land from on board any vessel lying at anchor in obedience to the above recited act of the legislature, as well as for the accommodation of the persons superintending and performing quarantine: And he is hereby empowered to contract in behalf of the commonwealth for a sufficient quantity of land at every place designated as above, for the aforesaid purpose; and in case of any proprietors refusing to sell upon reasonable terms the quantity required, the Governor, with the advice of Council, shall forthwith cause to be condemned and appropriated, by a writ of *ad quod damnum*, a quantity not exceeding two acres, the value whereof to be paid for out of the public treasury.

II. AND whereas it is doubtful whether any superintendant of quarantine, hath a right to enforce the laws for the performance thereof, until a specific proclamation shall have issued from the Governor, which, under a negative construction by causing delay, might hazard the introduction of a contagious distemper: *Be it further enacted*, That the superintendant of quarantine for the time being for any port within this commonwealth, upon intelligence to be relied on, of a pestilential disease prevailing in any place, between which and the port for which he is superintendant, there may be occasional intercourse, shall have power with the consent of the corporate or other local authority, to enforce without further delay towards vessels or persons coming from such infected place, the laws, for the performance of quarantine, until the Executive shall have signified their assent or dissent to the proceeding; and upon all such occasions he shall immediately transmit to the Governor the nature and extent of the intelligence which in his estimation justified the measure, in order that the sense of the Executive may be had thereon as early as possible.

III. AND whereas no legal measures exist for preventing the propagation of pestilential diseases, when any such shall have unhappily obtained a reception among us: *Be it therefore further enacted*, that if any place within this commonwealth, shall become infected with a malignant distemper, which shall be of a nature manifestly contagious, such place shall be co-extensively subject to the operation of the laws for the performance of quarantine with any foreign place.

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXC.

An Act establishing Inspections of Indian Meal within this Commonwealth.

[Passed the 17th of December, 1795.]

Inspectors of flour to be appointed inspectors of Indian meal.

I. *BE it enacted by the General Assembly*, That the inspectors of flour appointed in various places within this Commonwealth in conformity to an act, intitled, "*An act reducing into one the several acts for regulating the inspections of flour and bread*," shall be, and they are hereby appointed inspectors of Indian meal; and in all appointments hereafter to be made under the act aforesaid, the inspectors of flour shall also be appointed inspectors of Indian meal. All sifted Indian meal, and every barrel thereof brought to any of the places mentioned in the above recited act for exportation, shall be made by the miller or manufacturer thereof from corn well kiln dried, and be merchantable and of due fineness.

Miller to keep a brand mark, and mark on each cask of meal nett weight, &c.

II. EVERY miller or manufacturer of Indian meal, shall provide and keep a distinguishable brand mark, with which he shall brand every cask of meal, and mark thereon the tare and nett weight, before the same shall be removed from the place where the same was manufactured, under the penalty of thirty-three cents for every cask of meal which shall not be marked as aforesaid: And every cask or barrel of Indian meal which the inspector shall judge to be well packed, kiln dried, and merchantable, according to the directions of this act, shall be branded in the quarter with these words "fine meal" and with the name of the place at which he is inspector.

Materials and dimensions of, and quantity of meal to be put into, each barrel.

III. THE casks or barrels in which Indian meal shall be packed, shall be made of the same materials and dimensions as by the said act is directed for barrels for flour and bread: And they shall in like manner be coopered, hooped and nailed. Every miller and manufacturer of Indian meal shall put into each barrel the full quantity of one hundred and ninety-six pounds of meal, and into every half barrel the full quantity of ninety-eight pounds of meal: And if any of them shall put a smaller quantity into any cask, than is directed

Penalty for putting in.

by this act, he shall forfeit for the deficiency of every pound under three, eight cents, and for the deficiency more than three seventeen cents.

IV. FOR every barrel of Indian meal inspected agreeable to the directions of this act, the inspector shall have and receive as a compensation, two cents; but the owner or manufacturer shall have the same right of appeal from the judgment of the inspectors as is provided in the case of flour.

V. IT shall not be lawful for any person to export or lade on board of any ship or vessel for exportation out of this state, any cask of Indian meal which shall have been condemned by an inspector; or to export or lade on board of any ship or vessel for exportation, from any port or place within this state, any casks or barrels of Indian meal, not inspected as aforesaid, on pain of forfeiting and paying five dollars for every cask or barrel exported, or laden on board any ship or vessel for exportation, which may be recovered before a single magistrate, one half to the use of the informer, and the other half to the use of the commonwealth.

VI. THIS act shall commence and be in force, from and after the first day of February next.

to any barrel a smaller quantity.

Rate of inspection.

Exportation of uninspected meal prohibited.

Penalty on persons exporting such meal.

Commencement of this act.

CHAP. CXCVI.

An Act to amend the several Acts for regulating Pilots, and ascertaining their Fees.

[Passed the 22d of December, 1795.]

WHEREAS by the act, "To reduce into one, the several acts for regulating Pilots, and ascertaining their Fees," every master of a merchant vessel coming from sea, is obliged to receive the first pilot who offers below the Horse-Shoe, which by experience has been found not to effect the object of supplying vessels, arriving on our coasts, with pilots:

Preamble.

I. BE it therefore enacted, That it shall be lawful for any pilot belonging to this commonwealth, who first meets a vessel at sea, to take charge of, and conduct her into Hampton road, York river, or Mobjack bay, and to receive the fees allowed by law for conducting vessels to the aforesaid places; from whence any pilot having a branch for the port she is destined to, may take charge of, and conduct her thereto.

Pilot first meeting a vessel to conduct her to certain places.

II. AND be it enacted, That every pilot shall be allowed and paid one fourth in addition to the fees, allowed by the act, "To reduce into one, the several acts for regulating pilots, and ascertaining their fees:" Provided always, That coasting vessels shall not be obliged to take a pilot.

Additional fees for pilotage.

Proviso.

III. AND be it further enacted, That every pilot who meets a vessel, coming from any place infected with contagious diseases, and directed by proclamation of the Governor to perform a quarantine, shall, before he boards her, enquire whether any person or persons on board are sick, and if any should be so, that he direct the said vessel to follow his boat, which said vessel he is to lie by, and conduct to the nearest place for vessels to perform quarantine, and there bring her to anchor; but if no person on board such vessel be sick, he may conduct her to the port she is bound to: Provided, There be a superintendant of quarantine in such port, and proceed immediately to give notice to the said superintendant of the arrival; and the said pilot for his extra trouble therein, shall be allowed and paid by the master or owner of the vessel, five dollars over and above the pilotage he is entitled to. And if any pilot shall fail to give notice to the superintendant, it shall be considered a breach of good behaviour, and shall moreover forfeit his branch for twelve months: Provided, That nothing herein expressed shall affect the rate of pilotage as established by law, from the Capes to the different places up the Patowmac river, which shall remain as estimated in the law passed in the year one thousand seven hundred and ninety-two.

Rules to be observed by pilots, in case of meeting vessels coming from places infected with contagious diseases.

IV. ALL and every act coming within the purview hereof, shall be, and the same is hereby repealed.

Repealing clause.

V. THIS act shall commence and be in force, from and after the first day of February next.

Commencement of this act.

CHAP. CXC VII.

An Act for the Inspection of Fish.

[Passed the 28th of December, 1795.]

Courts to appoint inspectors of fish; their duty and allowance; gauge of casks, &c.

I. **B**E it enacted by the General Assembly, That no fish shall be exported out of this commonwealth until the same shall be packed in barrels, under the regulations herein after expressed; and the justices of every county and corporation court within this commonwealth are hereby authorised and required, whenever application shall be made to any court for that purpose, and in the months of August and September annually to nominate and appoint in open court, one or more (not exceeding six in one county) fit and able person or persons residing in the same county, to inspect the package of all fish packed for sale or exportation in their respective counties. And every person so appointed, shall before he enters upon the execution of that office, make oath before the justices of his county court, carefully to view, inspect, and examine, when required, all fish packed for sale or exportation, and to the best of his skill and judgment not to pass or stamp any barrel of fish that is not good, clean, sound, merchantable, and of the gauge by this act directed, and faithfully to discharge the duty of his office, without favor, affection, or partiality; and shall constantly attend upon notice at such time and place as the owner of any such commodity shall appoint to inspect the same within his county, but shall not inspect or stamp any fish imported from another state of the union, until the same shall be brought to some public landing; and shall provide a stamp or stamps with the first letter of his county, the letter V for Virginia, the first letter of his own christian name, and his whole surname at length to be stamped on each barrel or cask by him passed, for which he may demand and take for every barrel of fish by him stamped, six cents, to be paid down by the owner.

Penalty imposed on inspectors for neglect of duty, &c.

II. AND if any officer so appointed and sworn, shall neglect his duty, or stamp any such commodity contrary to this act, he shall forfeit and pay one dollar for every barrel of fish which shall be found not duly qualified, or of less weight or contents than this act requires, and also one dollar for every neglect of his duty, recoverable by the informer with costs before a justice of the peace of the county where such offence shall be committed.

Fish to be of one kind; and inspector not to pass any such, unless of good quality.

III. EVERY barrel of fish packed within this commonwealth for sale, in any town established in this state, or exportation, or imported here, shall be packed all of one kind, and in a barrel well seasoned, containing not less than thirty nor more than thirty-two gallons; and all barrels so packed shall be full, well nailed, and pegged, and the fish therein shall be well salted, sound and well seasoned; and no inspector shall pass or stamp any barrel of fish that does not appear to such inspector to be well salted and cured before the same is packed; and after the same has been inspected, found merchantable, and passed by the inspector or inspectors residing in the county where the same shall be packed or imported, every such barrel shall be by him or them stamped or branded as aforesaid, and a certificate thereof given to the owner.

Penalty on persons selling fish in casks of smaller gauge than directed by this act.

IV. AND if any person shall presume to sell or expose to sale, or barter any barrel of fish of less size or gauge than that above mentioned in any town established in this state, he or she shall forfeit and pay to the informer two dollars for every such barrel of fish sold or exposed to sale, or barter in this commonwealth, recoverable with costs by the informer before any justice of the county or corporation where such offence shall be committed, although the penalty shall exceed five dollars; and every justice of the peace upon such complaint before him made, and due proof of such offence, shall and may by virtue of this act, give judgment for the whole penalty, and award execution thereupon; any law to the contrary thereof notwithstanding: *Provided nevertheless*, That from such judgment for more than five dollars, the party grieved may appeal to the next court to be held for the county wherein such complaint was made, the appellant entering into bond with sufficient security before the justice by whom the judgment shall be given, that he will prosecute his appeal with effect, and pay the same judgment and all costs awarded by the court, if the judgment shall be affirmed; and the justice of the peace taking such bond, shall return the same together with the whole record of his proceedings in the cause, to the same court to which such appeal shall be, which court shall and may receive, hear, and finally determine the same.

Provide.

V. EVERY seller or exporter of fish packed in this commonwealth, and stamped or branded, shall make oath before a justice of the peace, at the time of the delivery of such fish sold or exported, that the several barrels by him then sold or exported, are the same that were inspected and passed, and do contain the full quantity, without embezzlement or alteration to his knowledge; and every person taking a false oath, and being lawfully convicted thereof, shall suffer the pains and penalties inflicted on persons guilty of wilful and corrupt perjury, and moreover shall forfeit and pay the sum of one hundred dollars, to be recovered by any person or persons that will sue for the same, to his or their own use.

Persons selling or exporting fish, to identify the same on oath.

Penalties on conviction of having taken a false oath.

VI. AND if any such fish be put to sale or shipped off without having been approved by an inspector, and the barrels in which they are contained have not the said inspector's stamp, mark, or brand upon them, or if any master of any ship or other vessel, officer or mariner, shall receive on board any such ship for exportation, the offender or offenders shall incur the penalty of two dollars for each barrel so shipped, to be recovered in any court of record in this commonwealth, by him or them who will sue for the same; and moreover all fish laded or received on board for exportation as aforesaid, shall be forfeited. And if any cooper, inspector, or other person, shall shift any fish either on board any ship or vessel, or on shore, after the same hath been so branded, stamped, or marked by the inspector, and ship and export the same, and a new brand, stamp, or mark the barrel whereinto such fish are shifted, all persons acting, ordering or assisting therein, and being thereof convicted, shall forfeit and pay a sum not exceeding five dollars. And if any person other than the proper officer shall presume to mark, stamp, or brand any barrel of fish with the stamping or branding instrument belonging to such officer, or other instrument made in imitation thereof, such person or persons on conviction thereof, shall forfeit and pay the sum of five dollars for each barrel so marked, stamped, or branded, to be recovered in the manner before mentioned.

Fines on mariners for receiving uninspected fish on board their vessels, &c.

VII. EVERY cooper, and the master or owner of every servant or slave, who shall set up barrels for fish, shall make the same in the following manner, to wit: Each barrel, of good, strong, well seasoned timber, clear of sap, and not less than five eighths of an inch thick, tight and well hooped with twelve hoops at the least.

Materials of the casks; number of hoops to be put thereon, &c.

VIII. THE several fines and forfeitures imposed by this act (except such as are otherwise recoverable) shall, and may be recovered to the use of the informer, where the same shall not exceed five dollars, before any justice of the peace; and for any sum above five dollars, and not exceeding twenty dollars, by petition in any county court; and for all sums above twenty dollars, in any court of record within this commonwealth, by action of debt or information, with costs of suit.

Fines, &c. imposed by this act, how and for whose use recoverable.

IX. THIS act shall commence and be in force, from and after the first day of June next.

Commencement of this act.

CHAP. CXCVIII.

An Act to ascertain the Salary of the Judge of the High Court of Chancery.

[Passed the 26th of December, 1795.]

I. **B**E it enacted by the General Assembly, That the salary of the judge of the high court of chancery, shall, and is hereby declared to be, after and at the rate of sixteen hundred sixty-six dollars, and sixty-seven cents per annum, payable in the like manner and proportions, as the salary heretofore allowed to the chancellor has been paid.

Salary of the judge of the high court of chancery, & how payable.

II. THIS act shall commence in force and have effect on the first day of January next.

Commencement of this Act.

General Assembly, begun and held at the Capitol, in the City of *Richmond*, on *Tuesday*, the 8th day of *November*, in the Year of our Lord, 1796.

CHAP. CXCIX.

An Act to establish Public Schools.

[Passed the 22nd of December, 1796.]

Preamble.

WHEREAS it appeareth that the great advantages, which civilized and polished nations enjoy, beyond the savage and barbarous nations of the world, are principally derived from the invention and use of letters, by means whereof the knowledge and experience of past ages are recorded and transmitted, so that man, availing himself in succession of the accumulated wisdom and discoveries of his predecessors, is enabled more successfully to pursue and improve not only those arts, which contribute to the support, convenience, and ornament of life, but those also, which tend to illumine and enoble his understanding, and his nature.

AND whereas, upon a review of the history of mankind, it seemeth that however favorable republican government, founded on the principles of equal liberty, justice and order, may be to human happiness, no real stability, or lasting permanency thereof can be rationally hoped for, if the minds of the citizens be not rendered liberal and humane, and be not fully impressed with the importance of those principles from whence these blessings proceed: With a view therefore, to lay the first foundations of a system of education, which may tend to produce those desirable purposes:

Aldermen to be elected for each county, in the manner and at the time of electing delegates.

I. *BE it enacted by the General Assembly*, That in every county within this commonwealth, there shall be chosen annually, by the electors qualified to vote for delegates, three of the most honest and able men of their county, to be called the aldermen of the county, and that the election of the said aldermen shall be held at the same time and place, before the same persons, and notified and conducted in the same manner as by law is directed for the annual election of delegates for the county.

Aldermen to be furnished with a certificate, and notified of their election.

II. THE person before whom such election is holden, shall certify to the court of the said county, the names of the aldermen chosen, in order that the same may be entered of record, and shall give notice of their election to the said aldermen within ten days after such election.

Aldermen to meet annually on the second Monday in May, to consider the expediency of carrying this act into execution within their respective counties, which shall be laid off into sections.

III. THE said aldermen, or any two of them, annually, on the second Monday in May, if it be fair, and if not, then on the next fair day, excluding Sunday, shall meet at the court-house of their county, and shall then and there proceed to consider the expediency of carrying the subsequent parts and provisions of this present act into execution, within their counties respectively, having regard to the state of the population within the same. And if it shall seem expedient to the said aldermen in any year, to carry into effect the subsequent parts and provisions of this act, the said aldermen are hereby empowered and required to proceed to divide their said county into sections, regulating the size of the said sections, according to the best of their discretion, so as that they may contain a convenient number of children to make up a school, and be of such convenient size that all the children within each section may daily attend the school to be established therein, distinguishing each section by a particular name; which division with the names of the several sections shall be returned to the court of the county, and be entered of record, and shall remain unaltered, until the increase or decrease of inhabitants shall render an alteration necessary, in the opinion of any succeeding aldermen, and also in the opinion of the court of the county.

Householders of each section to meet and determine the most proper place for the school-house.

IV. THE householders residing within every section, shall meet on the first Monday in September next, after the aldermen of their county shall have determined that it is expedient that the provisions of this act shall be carried into execution within the same, at such place within their section as the said aldermen shall direct, notice thereof being previously given to them by such person residing within the section, as the said alderman shall require, who is hereby enjoined to obey such requisition, on pain of being punished by amerce-

ment. The householders being so assembled, shall choose the most convenient place within their section, for building a school-house. If two or more places, having a greater number of votes than others, shall yet be equal between themselves, the aldermen, or such of them as are not of the same section, on information thereof, shall decide between them. The said aldermen shall forthwith proceed to have a school-house built at the said place, and shall see that the same be kept in repair, and when necessary, that it be rebuilt; but whenever they shall think it necessary that it be rebuilt, they shall give notice as before directed, to the householders of the section, to meet at the said school-house, on such day as they shall appoint, to determine by vote in the manner before directed, whether it shall be rebuilt at the same, or what other place in the section.

Proceedings in case two men have an equal vote, &c.

V. THE power and authority of the aldermen elected under this act, who shall first determine in each county respectively, that it is expedient to carry this act into execution, shall continue until the aldermen who may be elected at an ensuing election, shall have actually formed a meeting, and so on in every ensuing year; and if the place of any of the said aldermen shall become vacant by death, resignation, or removal out of the county during the period for which he or they may be elected, such vacancy or vacancies shall be supplied by other fit persons by the court of the county for the remainder of the said period.

Duration of the authority of the aldermen, & vacancies how supplied.

VI. AT every of these schools shall be taught reading, writing, and common arithmetic; and all the free children, male and female, resident within the respective sections, shall be entitled to receive tuition gratis, for the term of three years, and as much longer at their private expense, as their parents, guardians, or friends, shall think proper. The said aldermen shall from time to time appoint a teacher to each school, and shall remove him as they see cause. They or some one of them, shall visit every school once in every half year, at the least, examine the scholars, and superintend the conduct of the teacher in every thing relative to his school.

Learning, what shall be taught in the several schools.

VII. THE salary of the teacher with the expense of building and repairing a school-house in each section shall be defrayed by the inhabitants of each county in proportion to the amount of their public assessments and county levies, to be ascertained by the aldermen of each county respectively, and shall be collected by the sheriff of each county, in the same manner as other public taxes are collected, and paid to the aldermen of each county, at the time appointed for the payment of county levies by the sheriffs; and in case any sheriff shall fail to make payment, the aldermen of his county shall and may recover such assessment from him in the same manner as county creditors are authorised by law to recover from him.

Salary of tutors, and expense of erecting and repairing school-houses, how defrayed.

VIII. *AND be it also enacted*, That the mayor, aldermen and common council of the several boroughs and corporations, within this commonwealth, shall have power by a bye-law or regulation, to adopt and carry into effect within their respective corporations, the principles and provisions of this act, in such manner as to them may seem most expedient, distinct from the counties within which such corporation may be comprehended.

Corporate towns empowered to act distinct from the counties wherein they may be situated.

IX. *PROVIDED always, and be it further enacted*, That the court of each county, at which a majority of the acting magistrates thereof shall be present, shall first determine the year in which the first election of said aldermen shall be made, and until they so determine no such election shall be made. And the court of each county shall annually, until each election be made at their court in the month of March, take this subject into consideration and decide thereon.

Proviso as to the first election of aldermen.

X. THIS act shall commence and be in force, from and after the first day of January, in the year of our Lord, one thousand seven hundred and ninety-seven.

Commencement of this act.

CHAP. CC.

An Act to amend the Penal Laws of this Commonwealth.

[Passed December the 15th, 1796.]

I. **B**E it enacted, That no crime whatsoever committed by any free person against this commonwealth, (except murder of the first degree) shall be punished with death within the same.

Punishment by death for crimes committed by free persons, abolished.

Except for murder of
the first degree, as here-
in defined.

Jury to ascertain degree
of the murder in all ca-
ses.

Petit treason punishable
as murder.

High treason how pu-
nishable.

Arson, how punishable.

Rape, how punishable.

Murder in the second
degree, how punishable.

Robbery or burglary,
how punishable

Horse stealing, how pu-
nishable.

Larceny of the value of
four dollars, how pun-
ishable.

Larceny under the va-
lue of four dollars, how
punishable.

Robbery of obligations,
bills obligatory, &c.
how punishable.

Forgery and counter-
feiting, how punishable.

II. AND WHEREAS, The several offences which are included under the general denomination of murder, differ so greatly from each other in the degree of their atrociousness, that it is unjust to involve them in the same punishment: *Be it further enacted*, That all murder which shall be perpetrated by means of poison, or by lying in wait, or by any other kind of wilful, deliberate, and pre-meditated killing, or which shall be committed in the perpetration or attempt to perpetrate any arson, rape, robbery, or burglary, shall be deemed murder of the first degree; and all other kinds of murder shall be deemed murder of the second degree, and the jury before whom any person indicted for murder shall be tried, shall, if they find such person guilty thereof, ascertain in their verdict whether it be murder, in the first or second degree; but if such person shall be convicted by confession, the court shall proceed by examination of witnesses to determine the degree of the crime, and to give sentence accordingly.

III. *AND be it further enacted*, That every person liable to be prosecuted for petit treason, shall in future be indicted, proceeded against and punished, as is directed in other kinds of murder.

IV. EVERY person duly convicted of the crime of high treason, shall be sentenced to undergo a confinement in the jail and penitentiary house herein after mentioned, for a period not less than six, nor more than twelve years, and shall be kept therein at hard labour or in solitude, and shall in all things be treated and dealt with as is herein after directed. Every person duly convicted of the crime of arson, or as being an accessory thereto, shall be sentenced to undergo a similar confinement for a period not less than five, nor more than twelve years, under the same conditions as are herein after directed. Every person duly convicted of the crime of rape, or as being accessory thereto before the fact, shall be sentenced to undergo a similar confinement, for a period of time not less than ten years, nor more than twenty-one years, under the same conditions as are herein after directed. Every person duly convicted of the crime of murder in the second degree, shall be sentenced to undergo a similar confinement for a period not less than five years, nor more than eighteen years, under the same conditions as are herein after directed.

V. EVERY person convicted of robbery or burglary, or as accessory thereto before the fact, shall restore the thing robbed or taken, to the owner or owners thereof, or shall pay to him, her, or them, the full value thereof, and be sentenced to undergo a similar confinement, for a period not less than three, nor more than ten years, under the same conditions as are herein after directed.

VI. EVERY person convicted of horse-stealing, or as accessory thereto before the fact, shall restore the horse, mare, or gelding stolen, to the owner or owners thereof, or shall pay to him, her, or them the full value thereof, and also undergo a similar confinement, for a period not less than two, nor more than seven years, under the same conditions as are herein after directed. Every person convicted of simple larceny to the value of four dollars and upwards, or as accessory thereto before the fact, shall restore the goods or chattels so stolen to the right owner or owners thereof, or shall pay to him, her, or them, the full value thereof, or so much thereof as shall not be restored; and moreover shall undergo a similar confinement, for a period not less than one, nor more than three years, under the same conditions as are herein after directed.

VII. IF any person shall feloniously take, steal and carry away any goods or chattels under the value of four dollars, the same order and course of trial shall be had and observed as for other simple larcenies, and he, she, or they, being thereof legally convicted, shall be deemed guilty of petit larceny, and shall restore the goods and chattels so stolen, or pay the full value thereof to the owner or owners thereof, and be further sentenced to undergo a similar confinement, for a period not less than six months, nor more than one year, under the same conditions as are herein after expressed.

VIII. ROBBERY or larceny of obligations or bonds, bills obligatory, bills of exchange, promissory notes for the payment of money, lottery tickets, paper bills of credit, certificates granted by or under the authority of this commonwealth, or of the United States, or any of them, shall be punished in the same manner as robbery or larceny of goods and chattels.

IX. EVERY person who shall be convicted of having falsely forged and counterfeited any gold or silver coin, which now is, or hereafter shall be passing or in circulation within this state, or of having falsely uttered, paid or tendered in payment, any such counterfeit and forged coin, knowing the same to be forged and counterfeit, or having aided, abetted, or commanded

the perpetration of either of the said crimes, or shall be concerned in printing, signing or passing any counterfeit notes of the banks of Alexandria or the United States, knowing them to be such, or altering any genuine notes of either of the said banks, shall be sentenced to undergo a confinement, in the jail and penitentiary house herein after mentioned, not less than four, nor more than fifteen years, and shall be kept, treated and dealt with in manner herein after directed, and shall also pay such fine as the court shall adjudge, not exceeding one thousand dollars.

X. WHOSOEVER on purpose and of malice aforethought, by lying in wait, shall unlawfully cut out or disable the tongue, put out an eye, slit the nose, cut off the nose, ear, or lip, or cut off or disable any limb or member of another, with intention in so doing, to maim or disfigure such person, or shall voluntarily, maliciously, and of purpose, pull or put out an eye while fighting or otherwise, every such offender, his or her aiders, abettors and counsellors, shall be sentenced to undergo a confinement in the said jail and penitentiary house, for any time not less than two, nor more than ten years, and shall be kept, treated and dealt with in manner herein after mentioned; and shall also pay a fine not exceeding one thousand dollars, three fourths whereof shall be for the use of the party grieved.

Malicious maiming of disfiguring, how punishable.

XI. WHOSOEVER shall be convicted of any voluntary manslaughter, shall be sentenced to undergo an imprisonment, at hard labour and solitary confinement in the said jail and penitentiary house, for any time not less than two, nor more than ten years, and to give security for his or her good behaviour during life, or for any less time, according to the nature and enormity of the offence; and for the second offence, shall be sentenced to undergo an imprisonment at hard labour and solitary confinement in the said jail and penitentiary house, for any time not less than six, nor more than fourteen years.

Voluntary man-slaughter, how punishable.

XII. WHERESOEVER any person shall be charged with involuntary manslaughter, happening in consequence of an unlawful act, it shall and may be lawful for the attorney-general, or other person prosecuting the pleas of the commonwealth, with the leave of the court, to waive the felony, and to proceed against and charge such person with a misdemeanor, and to give in evidence any act or acts of manslaughter; and such person or persons, on conviction shall be fined or imprisoned as in cases of misdemeanor; or the said attorney-general, or other person prosecuting the pleas of the commonwealth, may charge both offences in the same indictment, in which case, the jury may acquit the party of one, and find him or her guilty of the other charge.

Involuntary manslaughter, in consequence of an unlawful act, how proceeded against and punished.

XIII. ALL claims to dispensation from punishment by benefit of clergy, shall be and are hereby forever abolished; and every person convicted of any felony heretofore deemed clergyable, shall undergo an imprisonment at hard labour and solitary confinement in the said jail and penitentiary house, for any time not less than six months, and not more than two years, and shall be treated and dealt with as is directed hereafter, except in those cases where some other specific penalty is prescribed by this act.

Benefit of clergy done away.

XIV. EVERY person convicted of murder of the first degree, his or her aiders, abettors and counsellors, shall suffer death by hanging by the neck.

Murder of the first degree punishable by death.

XV. THE jury before whom any offender may be tried, shall decide upon, and in their verdict ascertain the time within the respective periods prescribed, during which such offenders shall undergo confinement in the jail and penitentiary house herein after mentioned, according to the directions of this act.

Periods of confinement in all cases determinable by a jury.

XVI. EVERY other felony, misdemeanor or offence whatsoever, not provided for by this act, may and shall be punished as heretofore.

Offences not punishable by this act, to be punished as heretofore.

XVII. THE executive of this commonwealth are hereby requested as soon as may be, to cause as much land in or near the city of Richmond, to be purchased for the use of the commonwealth, as will be sufficient for the building of a jail and penitentiary house, which shall be constructed of brick or stone, upon such plan, as will best prevent danger from fire, and sufficient to contain with convenience, two hundred convicts at least, with a yard sufficiently capacious adjoining thereto for the said convicts occasionally to walk about and labour in, which said yard shall be surrounded by walls of such height as without unnecessary exclusion of air, will be sufficient to prevent the escape of the prisoners.

Executive to purchase land near the city of Richmond for the erection of the jail, &c.

XVIII. THE executive are hereby also requested to cause a suitable number of cells to be constructed in the yard of the said jail, each of which cells

Executive to cause cells to be constructed in the

yard of the jail.

Executive to draw from the treasury money to defray the expense of building the jail, &c.

Criminals to be confined in the jail and cells.

Criminals to be conveyed by sheriffs or sergeants of corporations to the jail.

Penalty for failing to deliver such criminal.

The court to determine what portion of time criminals shall be confined in solitary cells
Proviso as to inspectors of the jail.

Character of convicts to be reported to the inspectors of the jail.

And

The report to be recorded.

Persons convicted a second time of an offence now punishable with death, shall be confined for life.
Persons sentenced to labour who escape or are pardoned and are guilty of an offence now a felony of death, how punishable.

Persons convicted of crimes before this act shall have been declared in force, may pay

shall be six feet in width, eight feet in length, and nine feet in height, and shall be constructed of brick or stone, upon such plan as will best prevent danger from fire, and the said cells shall be separated from the common yard, by walls of such height, as without unnecessary exclusion of air and light, will prevent all external communication, for the purpose of confining therein the offenders who may be sentenced to solitary confinement by virtue of this act.

XIX. AND for the purpose of defraying the expense of purchasing such land, and of erecting such jail, cells and walls, the governor by and with the advice of council, shall be and is hereby authorised from time to time to draw from the treasury, a sum not exceeding thirty thousand dollars, to be paid out of any monies which may be in the treasury unappropriated to other purposes, and shall from time to time cause to be laid before the General Assembly, an account of the expenditure of the same.

XX. THE said jail and cells shall be appropriated to the purpose of confining such males and females as shall have been convicted of the offences above enumerated as punishable with imprisonment and labour, but the males and females are hereby required to be kept separate and apart from each other; and all the prisoners shall be subject to the visitation and superintendence of the inspectors herein after appointed.

XXI. EVERY person convicted in any district court in this state, of any crime (except murder of the first degree) herein before specified, shall, as soon as possible after conviction, be safely removed and conveyed by the sheriff of the county or sergeant of the corporation in which the crime or offence shall have been committed, and at the expense of the commonwealth, to the said jail and penitentiary house, and therein be kept during the term of their confinement, in the manner and on the terms herein after mentioned. And every sheriff or sergeant who shall neglect to remove and safely deliver at the jail aforesaid such convict, shall forfeit and pay the sum of one hundred dollars, to be recovered in any court of record, and applied, one half to the use of the county or corporation where the offence was committed, the other to such person as shall sue for the same.

XXII. EVERY person convicted of any of the crimes aforesaid, and who shall be confined in the jail and penitentiary house aforesaid, shall be placed and kept in the solitary cells thereof on low and coarse diet, for such part or portion of the term of his or her imprisonment as the court in their sentence shall direct and appoint: *Provided*, That it be not more than one half, nor less than one twelfth part thereof; and that the inspectors of the said jail shall have power to direct the infliction of the said solitary confinement, at such intervals and in such manner as they shall judge best.

XXIII. AND whereas it is of importance that the nature of the offence, and the former conduct and character of the convicts should be known by the said inspectors, *Be it further enacted*, That whenever any person shall be convicted of any crime which now is capital or a felony of death, the court before whom such conviction is had, shall before their adjournment to another term, make and cause to be transmitted to the said inspectors a report, or short account of the circumstances attending the crime committed by such convict, particularly such as tend to aggravate or extenuate the same, and also what character the said convict appeared on the trial to sustain, and whether he had at any time before been convicted of any felony or other infamous crime; which report the said inspectors shall cause to be entered in books or registers to be provided for that purpose.

XXIV. IF any person convicted of any crime, which now is capital, or a felony of death without benefit of clergy, shall commit any such offence a second time, and be thereof legally convicted; he or she shall be sentenced to undergo an imprisonment in the said jail and penitentiary house, at hard labour, during life, and shall be confined in the said solitary cells at such times and in such manner as the inspectors shall direct; and if any person sentenced to hard labour and solitary confinement by virtue of this act, shall escape or be pardoned, and after his or her escape or pardon shall be guilty of any such offence as now is capital, or felony of death without benefit of clergy, such person shall be sentenced to undergo an imprisonment for the term of twenty-five years, and shall be confined in the solitary cells aforesaid, at the discretion of the said inspectors.

XXV. IF any person after this act shall, by proclamation of the governor as herein after mentioned, be declared in force, be convicted of any crime, committed before the said day, he or she shall be sentenced to undergo such pains and punishment, as by the laws now in force, are prescribed and directed,

unless such convict shall openly pray the court before whom such conviction shall be had, that sentence may be pronounced agreeably to the provisions of this act, for the like offence; in which case the said court shall comply with the said prayer, and pass such sentence on such convict as they would have passed, had the said offence been committed subsequent to the said day.

the benefit of this act, when declared in force.

XXVI. NO person indicted for any crime, the punishment whereof is altered by this act, shall lose any peremptory challenge, to which he or she would have been entitled, had this act not been passed; nor be liable to be tried in any other courts than those in which they now are or may be tried for the same offences.

Privileges of criminals in the course of their trial.

XXVII. IN order to prevent the introduction of contagious disorders, every person who shall be ordered to hard labour in the said jail, shall be separately lodged, washed and cleaned; and shall continue in such separate lodging, until it shall be certified by some physician, that he or she is fit to be received among the other prisoners, and the cloathes in which such person shall then be cloathed, shall either be burnt, or at the discretion of two of the said inspectors, be baked, fumigated, or carefully laid by until the expiration of the term for which such offender shall be sentenced to hard labour, to be then returned to him or her.

Preventative means of infection in the penitentiary house.

XXVIII. ALL such convicts shall, at the public expense, during the term of their confinement, be cloathed in habits of coarse materials, uniform in colour and make, and distinguishing them from the good citizens of this commonwealth; and the males shall have their heads and beards close shaven at least once in every week, and all such offenders shall, during the said term, be sustained upon bread, Indian meal, or other inferior food, at the discretion of the said inspectors, and shall be allowed two meals of coarse meat in each week, and shall be kept, as far as may be consistent with their sex, age, health and ability, to labour of the hardest and most servile kind, in which the work is least liable to be spoiled by ignorance, neglect or obstinacy, and where the materials are not easily embezzled or destroyed; and if the work to be performed is of such a nature as may require previous instruction, proper persons for that purpose, to whom a suitable allowance shall be made, shall be provided by order of any two of the inspectors hereafter named; during which labour the said offenders shall be kept separate and apart from each other, if the nature of their several employments will admit thereof, and where the nature of such employment requires two or more to work together, the keeper of the said jail, or one of his deputies, shall, if possible, be constantly present.

Cloathing of the prisoners—their general treatment as to diet, labor, &c.

XXIX. SUCH offenders unless prevented by ill health, shall be employed in work every day in the year, except Sundays, and such days when they shall be confined in the solitary cells; and the hours of work in each day, shall be as many as the season of the year, with an interval of half an hour for breakfast, and an hour for dinner, will permit, but not exceeding eight hours in the months of November, December and January; nine hours in the months of February and October, and ten hours in the rest of the year; and when such hours of work are past, the working tools, implements and materials, or such of them as will admit of daily removal, shall be removed to places proper for their safe custody, until the hour of labour shall return.

Allowance to persons instructing prisoners in work.

XXX. THE keeper of the said jail shall from time to time, with the approbation of any two of the inspectors herein after mentioned, provide a sufficient quantity of stock and materials, working tools and implements for such offenders, for the expense of which the said inspectors, or any two of them, shall be, and they are hereby authorized to draw orders, to be countersigned by the auditor of public accounts, on the treasurer of this commonwealth, if need shall be, specifying in such orders the quantity and nature of the materials, tools, or implements wanted, which order the said treasurer is hereby required to discharge out of any money which may be at the time in the treasury: for which materials, tools and implements, when received, the said keeper shall be accountable; and the said keeper shall, with the approbation of any two of the said inspectors, have power to make contracts with any person whatever, for the cloathing, diet, and all other necessities, for the maintenance and support of such convicts, and for the implements and materials of any kind of manufacture, trade or labour, in which such convicts shall be employed, and for the sale of such goods, wares and merchandizes as shall be there wrought, and manufactured; and the said keeper shall cause all accounts concerning the maintenance of such convicts and other prisoners to be entered regularly in a book or books to be kept for that purpose, and shall also keep separate accounts of

Prisoners—their hours of employment.

Jailor to provide tools where withal to employ the prisoners.

And

with the approbation of two of the inspectors may contract for the cloathing and diet of the prisoners, and for the sale of manufactures by them wrought &c.

Of all which he shall keep account.

the stock and materials so wrought, manufactured, sold and disposed of, and the monies for which the same shall be sold, and when sold, and to whom, in books to be provided for those purposes; all which books and accounts shall be at all times open for the examination of the said inspectors, and shall be regularly laid before them at their quarterly or other meetings, as herein after is directed, for their approbation and allowance.

Power given the inspectors to detect frauds.

XXXI. IF the said inspectors at their quarterly or other meetings, shall suspect any fraudulent or improper charges, or any omission in any such accounts, they may examine upon oath or affirmation the said keeper or any of his deputies, servants or assistants, or any person of whom any necessaries, stock, materials or other things have been purchased for the use of the said jail, or any persons to whom any stock or materials wrought or manufactured therein have been sold, or any of the offenders confined in such jail, or any other person or persons concerning any of the articles contained in such accounts, or any omission thereout, and in case any fraud shall appear in such accounts, the particulars thereof shall be reported by the said inspectors to the mayor of the city of Richmond, for the purposes herein after mentioned.

Rewards to the industrious in certain cases.

XXXII. IN order to encourage industry as an evidence of reformation, separate accounts shall be opened in the said books for all convicts sentenced to hard labor for six months and upwards, in which such convicts shall be charged with the expenses of cloathing and subsistence, and such proportionable part of the expenses of the raw materials upon which they shall be employed, as the inspectors, at their quarterly, or other meetings, shall think just, and shall be credited with the sum or sums from time to time received by reason of their labor, and if the same shall be found to exceed the said expenses, the said excess shall be laid out in decent raiment for such convicts at their discharge, or otherwise applied to their use and benefit, as the said inspectors shall upon such occasions direct; and if such offender at the end or other determination of his term of confinement, shall labor under any acute or dangerous distemper, he shall not be discharged unless at his own request, until he can be safely discharged.

Visits or entrance into the prison prohibited generally, except by license.

XXXIII. NO person whatever, except the keeper, his deputies, servants, or assistants, the said inspectors, officers and ministers of justice, ministers of the gospel, or persons producing a written license, signed by two of the said inspectors, shall be permitted to enter within the walls where such offenders shall be confined: and the doors of all the lodging rooms and cells in the said jail shall be locked, and all light therein extinguished at the hour of nine, and one or more watchmen shall patrol the said jail at least twice in every hour from that time until the return of the time of labor in the morning of the next day.

Walls of the cells and apartments to be white washed at stated periods.

XXXIV. THE walls of the cells and apartments in the said jail shall be whitewashed with lime and water at least twice in every year, and the floors of the said cells and apartments shall be washed once every week, or oftener, if the said inspectors shall so direct, by one or more of the said prisoners in rotation, who at the discretion of the said keeper, shall have an extra allowance of diet for so doing; and the said prisoners shall be allowed to walk and air themselves for such stated time as their health may require, and the said keeper shall permit; and if proper employment can be found, such prisoners may also be permitted with the approbation of two of the said inspectors to work in the yard, provided such airing and working in the yard be in the presence or within the view of the said keeper, or his deputies or assistants.

An infirmary directed at the extreme end of the west wing of the jail, and how regulated.

XXXV. ONE or more of the apartments in the second story of the said jail, and at the extreme end of the west wing, shall be fitted up as an infirmary, and in case any such offender being sick, shall upon examination of a physician be found to require it, he or she shall be removed to the infirmary, and his or her name shall be entered in a book to be kept for that purpose, and when such physician shall report to the said keeper that such offender is in a proper condition to quit the infirmary and return to his or her employment, such report shall be entered by the said keeper in a book to be kept for that purpose, and the said keeper shall order him or her back to his or her former labor, so far as the same shall be consistent with his or her state of health; and the mayor and aldermen of the city of Richmond shall from time to time appoint a physician to attend the said jail.

Keeper of the said jail may punish prisoners in certain cases.

XXXVI. THE keeper of the said jail shall have power to punish all such prisoners guilty of assaults within the said jail, when no dangerous wound or bruise is given, profane cursing and swearing, or indecent behaviour, idleness

or negligence in work, or wilful mismanagement of it, or of disobedience to the orders or regulations herein after directed to be made, by confining such offenders in the solitary cells of the said jail, and by keeping them upon bread and water only for any term not exceeding two days; and if any such prisoner shall be guilty of any offence within the said jail which the said keeper is not hereby authorised to punish, or for which he shall think the said punishment is not sufficient, by reason of the enormity of the offence, he shall report the same to two of the said inspectors, who, if upon proper enquiry they shall think fit, shall certify the nature and circumstances of such offence, with the name of the offender to the mayor of the city of Richmond, and the mayor shall thereupon, order such offences to be punished by moderate whipping, or repeated whippings, not exceeding thirteen lashes each, or by close confinement in the said solitary cells, with bread and water only for sustenance, for any time not exceeding six days, or by all the said punishments.

Recourse to be had in other cases to the mayor of the city.

XXXVII. IT shall be lawful for the governor with the advice of council, to appoint a suitable person to be keeper of the said jail, who shall however be liable to be removed whenever occasion may require, in which case another shall, from time to time be appointed in like manner, who shall receive as a full compensation for his services, and in lieu of all fees and gratuities, by reason or under colour of the said office, so much as the governor with the advice of council, at the time such appointment shall be made, shall direct, to be paid in quarterly payments, by orders drawn on the treasury of this commonwealth by the auditor of public accounts, and also five per centum on the sales of all articles manufactured by the said criminals; and such keeper shall have power with the approbation of the governor and council, to appoint a suitable number of deputies and assistants, at such reasonable allowances as the governor with the advice of council, shall think just, which allowances shall be paid quarterly in like manner; and before any such jailor shall exercise any part of the said office, he shall give bond to the governor of the commonwealth, with two sufficient sureties, to be approved by the court of the city of Richmond, in the sum of two thousand dollars, upon condition that he, his deputies and assistants, shall well and faithfully perform the trusts and duties in them reposed; which said bond, being executed before, and certified by the said court, shall be recorded therein, and copies thereof, attested by the clerk of the said court, shall be legal evidence in all courts of law in any suit against such jailor or his deputies.

Keeper of the jail to be appointed and his salary fixed by the Executive, and liable to removal, &c.

Additional compensation to the keeper.

Keeper may appoint assistants, and shall enter into bond for the due discharge of his duty.

XXXVIII. IT shall be lawful for the said court of the city of Richmond at the first court after the time when the said jail shall be erected agreeably to the directions of this act, to appoint twelve inspectors, six of whom shall be in office for six months, and six for twelve months, and so during every succeeding six months, six inspectors shall be appointed by the said court, who shall be in office for twelve months; and if any person so appointed, not having a reasonable excuse, to be approved of by the said court, shall refuse to serve in the said office, he shall forfeit and pay the sum of thirty dollars; to be recovered by action of debt, the one half to the use of the person suing, the other half to be paid to the treasurer of this commonwealth; to be applied to the purposes herein before mentioned.

Court of the city of Richmond to appoint inspectors.

Penalty for refusal to act as inspector.

XXXIX. THE said inspectors, seven of whom shall be a quorum, shall meet once in three months in an apartment to be provided for that purpose in the said jail, and may be specially convened by the two acting inspectors when occasion shall require; and they shall at their first meeting appoint two of their members to be acting inspectors, who shall continue such for such time as shall be directed by the said inspectors, or a majority of them, when met together. And the acting inspectors shall attend the said jail at least once in each week, and shall examine into and inspect the management of the said jail and the conduct of the said keeper and his deputies, so far as respects the said offenders employed at hard labor by the directions of this act, and shall do and perform the several matters and things herein before directed by them to be performed.

Inspectors to meet once in three months and may be specially convened.

XL. THE board of inspectors at their quarterly or other meeting, shall make such other and further orders and regulations for the purpose of carrying this act into execution as shall be approved of by the executive; and such orders and regulations shall be hung up in at least six of the most conspicuous places in the said jail; and if the said keeper or any of his deputies or assistants shall obstruct or resist the said inspectors or any of them in the exercise of

Rules and orders to be hung up in different parts of the jail. Penalty on keeper and his assistants for resisting an inspector's authority.

Penalty on keeper in case of escapes.

Proviso.

Punishment of criminals in case of escape.

Penalty for introducing into the jail spirituous or fermented liquors.

Repealing clauses

Commencement of this act.

the powers and duties vested in them by this act, such person shall forfeit and pay the sum of sixty dollars, to be recovered as aforesaid, and shall moreover be liable to be removed in manner aforesaid from his respective office or employment in the said jail.

XLII. THE said keeper of the jail, his deputies and assistants, in case any of the said offenders shall escape from confinement without the knowledge or consent of the said keeper, his deputies or assistants, shall forfeit and pay the sum of thirty dollars, to be recovered and applied in manner aforesaid: *Provided*, that nothing in this act contained shall be deemed or taken to extend to escapes voluntarily suffered by the keeper of the said jail.

XLIII. IF any such offender sentenced to hard labor, shall escape, he or she shall on conviction thereof, suffer such additional confinement and hard labor, agreeably to the directions of this act, and shall also suffer such additional corporal punishment, not extending to life or limb, as the court in which such offender shall have been convicted, shall adjudge and direct.

XLIV. IF the jailor or any other person, shall introduce into, or give away, barter, or sell within the said jail any spirituous or fermented liquors, except only such as the said keeper shall make use of in his own family, or such as may be required for any prisoner in a state of ill health, and for such purpose prescribed by an attending physician, and delivered into the hands of such physician or other person appointed to receive them, such person shall forfeit and pay the sum of twenty dollars, one moiety thereof to the use of the person suing, the other moiety to be paid to the said inspectors for the purposes in this act contained.

XLV. ALL acts and parts of acts coming within the purview of this act, shall, on the operation of this act, be thereby repealed.

XLVI. SO much of this act as respects the purchase of land, and building thereon the above mentioned jail and cells, shall commence and be in force from the passing thereof. The other parts thereof shall remain suspended in their operation until the Governor by advice of council, shall issue his proclamation declaring the said jail to be in a situation fit to receive offenders, when the said other parts of this act shall commence and be in operation.

CHAP. CCI.

An Act to amend the act, intituled, "An act reducing into one the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees and county levies."

[Passed the 20th of December, 1796.]

Additional fees to clerks of courts for certain services.

I. **B**E it enacted by the General Assembly, That in addition to the fees now allowed by law to the clerks of courts within this commonwealth, they may demand and receive the following fees for the services herein after mentioned:

WHEN any deed of feoffment, or bargain and sale, or other deed for conveying and settling lands and tenements only, or together with slaves and personal estate, shall be recorded for every separate and distinct tract, piece or parcel of land, other than the first therein contained, twenty five cents.

THE fees for recording deeds where the grantees reside not within this state, shall be secured to the clerk before he shall be obliged to enter the proof or acknowledgment of the same of record. And in all cases, persons instituting suits in the courts of this commonwealth, not resident within the state, requiring services of the clerk of any court, shall secure the payment of the fees for such services, before the said clerk shall be obliged to perform the same.

Non-residents to give security.

Recommendations and qualifications of militia officers to be recorded without fees.

Repealing clause.

Commencement of this Act

II. *AND be it further enacted*, That it shall be considered as the duty of the clerks of the several counties within this commonwealth, to enter of record the recommendations of officers proper to fill vacancies in the militia, and qualify them without any fee for the same.

III. ALL and every act or acts coming within the purview of this act, shall be and are hereby repealed.

IV. THIS act shall commence in force, from the passing thereof.

CHAP. CCII.

An Act making provision for the re-payment of monies paid into the Treasury, in pursuance of an act "For sequestering British property, enabling those indebted to British subjects to pay off such debts, and directing the proceedings in suits where such subjects are parties."

[Passed the 19th of December, 1796.]

I. **B**E it enacted by the General Assembly, That the treasurer of this commonwealth for the time being, upon the application of any person or persons having title thereto, shall deliver to him or them a certificate for each sum of money paid into the treasury under an act, intituled, "*An act for sequestering British property, enabling those indebted to British subjects to pay off such debts, and directing the proceedings in suits where such subjects are parties,*" according to the principle of an act, intituled, "*An act concerning monies paid into the public loan office in payment of British debts,*" and such certificate shall express the value of the sum so paid, after the same shall have been reduced by the scale of depreciation established by one other act of the General Assembly, intituled, "*An act directing the mode of adjusting and settling the payment of certain debts and contracts, and for other purposes,*" to be due, with interest thereon at the rate of six per centum per annum, from the respective days on which such payments were severally made.

Treasurer to grant certificates for the amount of payments into the treasury in discharge of British debts.

II. **B**E it enacted, That in all cases where estates have been sequestered under the act, intituled, "*An act for sequestering British property, enabling those indebted to British subjects to pay off such debts, and directing the proceedings in suits where such subjects are parties,*" and not confiscated under the act, intituled, "*An act concerning escheats and forfeitures from British subjects,*" and money shall have been paid into the loan office on account of the owner of such sequestered estate in pursuance of the said first recited act, it shall and may be lawful for the auditor to issue to the person on whose account such payment has been made, or to his or her representatives, a certificate or certificates for the value thereof, according to the scale of depreciation, with interest in like manner as is directed in cases where payments have been made into the loan office by British debtors, under the said first recited act.

Auditor to grant certificates for the amount of money deposited in the treasury for sequestered estates.

CHAP. CCIII.

An Act to amend the act, intituled an act, reducing into one the several acts for regulating the inspection of Flour and Bread.

[Passed the 22d of December, 1796.]

I. **B**E it enacted by the General Assembly, That at each of the following places, to wit: Milton, in the county of Albemarle, the mouths of Harman's creek and Cross creek, in the county of Ohio, one inspector of flour shall be appointed in the same manner and under the like regulations as are directed and prescribed by the act passed in the year one thousand seven hundred and ninety-two, intituled, "*An act reducing into one the several acts for regulating the inspection of flour and bread.*"

Inspections of flour established at Milton, &c.

II. **A**ND be it further enacted, That if any miller or other person manufacturing flour, shall mix therewith flour of any other grain than wheat, the whole of such mixed flour shall be condemned by the inspector, who shall cause the same to be sold for the benefit of the commonwealth, after having given notice of the time and place of such sale for three weeks successively in some public gazette. And the inspector shall be allowed to retain as a commission for his trouble therein, five per centum upon the money produced by the sale of such mixed flour. And it shall be the duty of the several inspectors within this commonwealth, to account with the auditor and pay into the public treasury half yearly, the money arising from the sale of such condemned flour.

Mixed flour forfeited and sold by the inspector for the benefit of the state.

III. **P**ROVIDED nevertheless, That when any person shall think himself aggrieved by the judgment or want of skill in an inspector in condemning flour on account of such mixture, it shall be lawful for such person to apply to a justice of the peace, who shall, at the charge of the complainant, issue a warrant directed to three indifferent persons well skilled in the manufacture of flour, to view and examine the same; which said three persons having taken the same oath or affirmation as is by law directed to be taken by the several inspectors

Judgment or want of skill in an inspector in cases of mixed flour, how corrected.

Inspection at Pocahuntas discontinued.

Commencement of this act.

of flour, shall carefully view and examine the same, and if they or any two of them shall pass and declare the same to be merchantable, in such case the inspector shall erase out the word condemned, and put such brand on the said flour as they or any two of them shall direct, and shall repay to the complainant his costs; but if on such review the judgment of the inspector shall be confirmed, in such case the owner of the flour shall pay the cost of such review.

IV. *BE it further enacted*, That so much of the above recited act as establishes an inspection of flour at Pocahuntas shall be and the same is hereby repealed.

V. *THIS* act shall commence and be in force, from and after the first day of March next.

CHAP. CCIV.

An Act to amend the act, reducing into one, all the acts and parts of acts relating to the Appointment and Duties of Sheriffs.

[Passed the 23d of December, 1796.]

Repealing clause.

I. *BE it enacted*, That the fourth section of the act passed at the last session of the General Assembly, intituled, "*An act to amend the act, to reduce into one, all the acts and parts of acts relating to the appointment and duties of sheriffs.*" shall be, and the same is hereby repealed.

Additional allowance to sheriffs in certain cases.

II. *BE it further enacted*, That all sheriffs now in office or who shall hereafter come into office, and shall on or before the time appointed by law, pay into the treasury the full amount of the public revenue due from the counties in which they now act, or hereafter may act as sheriffs, shall at the time of making such payments respectively, be entitled to an additional compensation of two and an half *per centum* on the amount of the taxes by them accounted for and paid into the treasury, over and above the commission heretofore allowed by law in such cases.

Allowance to sheriffs for the preceding year in like cases.

III. *AND be it further enacted*, That all sheriffs who have paid into the treasury the full amount of the taxes due from their respective counties, for the year one thousand seven hundred and ninety-five, on or before the time prescribed by law, shall also receive in addition to the commission heretofore allowed by law, a commission of two and an half *per centum* upon the amount of the taxes by them so paid into the treasury; and the auditor of public accounts is hereby directed to issue to the said sheriffs in all such cases, warrants on the treasurer for the amount of all such commissions to which they may be respectively entitled under this act; any law to the contrary or seeming to the contrary notwithstanding.

Commencement of this act.

IV. *THIS* act shall be in force from and after the passing thereof.

CHAP. CCV.

An Act to alter the Time of the annual Meeting of the General Assembly.

[Passed the 24th of December, 1796.]

General Assembly, when holden.

BE it enacted, That the meeting of the General Assembly shall hereafter be on the first Monday in December, in every year; any law to the contrary thereof notwithstanding.

CHAP. CCVI.

An Act to amend the act, intituled, "An act to amend and reduce into one, the several acts concerning Slaves, Free Negroes, and Mulattoes."

[Passed the 23d of December, 1796.]

Owners of land or residents within this state may bring certain slaves from other states.

I. *BE it enacted*, That it shall and may be lawful for any citizen of these United States, residing in or owning lands within this state, who has carried or may carry any slave or slaves born within this state, into any other state, and who has not sold or hired or shall not hereafter sell or hire out such slaves, to bring him, her, or them, back again into Virginia without incurring any penalty therefor, nor shall such slave or slaves be entitled to freedom on that account.

PROVIDED always, That if any such slave or slaves be entitled to freedom under the laws of that state, to which he, she or they may have been or shall hereafter be removed, such right shall remain; any thing in this act notwithstanding.

Proviso.

II. THIS act shall be in force from the passing thereof.

Commencement of this act.

CHAP. CCVII.

An Act concerning the Inspection of Tobacco.

[Passed the 26th of December, 1796.]

WHEREAS, the act, intituled, "*An act for reducing into one, the several acts of Assembly for the inspection of tobacco,*" hath in many parts been found defective, and it is necessary that the same should be amended:

Preamble.

I. *BE it enacted by the General Assembly,* That the courts of the several counties wherein public warehouses for the inspection of tobacco have been or may be established, shall annually, in the months of August or September, appoint one or more commissioners, of capacity and integrity, whose duty it shall be to provide that proper conveniences and repairs be provided and made at the several warehouses in their county; that proper scales and weights be provided, kept in repair, and examined and compared with the standard weights of the county once in six months at least; that they visit in the same space of time each warehouse at least once, and see that the tobacco therein is properly stored away and secured, and that the inspectors in all things diligently discharge their duty; and if they shall discover in any inspector any negligence or breach of his duty, they shall certify the same to the executive if it be of such a nature as to remove such inspector from office; and in all other cases, such neglect or breach of duty shall be certified to the court which appointed such inspector, whereupon they shall proceed against him according to law: *Provided,* That to the warehouses in the town of Petersburg, one person shall be appointed by the court of each of the counties of Prince George, Dinwiddie, and Chesterfield; that to the warehouses in Richmond and Manchester, one person shall be appointed by the court of each of the counties of Henrico and Chesterfield; and to the warehouses in Fredericksburg and Falmouth, one person shall be appointed by the court of each of the counties of Spotsylvania and Stafford; and that the persons so appointed shall proceed jointly in performing the duties required by this act.

Courts of certain counties to appoint commissioners for the purposes herein mentioned.

Duty of such commissioners.

Proviso.

II. EACH commissioner appointed as aforesaid, shall be allowed two dollars per day for every day he shall be employed in performing the duties required by this act, which services shall be ascertained by the court which appointed him, and by them certified to the auditor of public accounts, who shall issue a warrant on the treasury for the same; the auditor shall in like manner issue warrants for expenses incurred by such commissioners or others acting under their directions in executing the services herein required, after due proof that the same have been performed.

Allowance of commissioners.

III. AND if any commissioner appointed by virtue of this act, shall fail to perform the duties thereby required, he shall, on motion to the court which appointed him, be displaced or fined by such court, to the use of the commonwealth, in such sum as they shall think proper, recoverable in the same manner as fines against sheriffs failing to pay money received on executions.

Commissioner failing to discharge his duty, liable to fine or removal from office.

IV. IF any inspector shall after the first day of October next, pass any tobacco packed in hogheads which exceed fifty-four inches in the length of the stave or thirty-four inches at the head within the crow, making reasonable allowance for prizing, which allowance shall not exceed two inches above the gauge in the prizing head, he shall for every such offence, be fined five dollars, to be recovered and appropriated as other fines against inspectors under the before recited act.

Penalty on inspectors passing tobacco in casks over a certain size.

V. EVERY inspector who shall re-issue or pass away any tobacco note after the delivery of the tobacco for which the same was granted, shall suffer as a felon without the benefit of clergy.

Inspector re-issuing a tobacco note, shall suffer as a felon.

VI. *AND be it enacted,* That an additional allowance of twenty-five per centum be made to each and every inspector of tobacco throughout this commonwealth on the salaries heretofore allowed them by law, provided that the duties arising from the shipping of tobacco from the respective warehouses shall be adequate to discharge the said salaries.

Salaries of Inspectors increased.

Pickers, their allowance and the allowance to inspectors for nails.

VII. IN lieu of the allowance now made by law to pickers of tobacco, they shall be and are hereby allowed to demand and receive for every hogf-head of tobacco by them opened, thirty three cents and one third of a cent; and every inspector shall be authorized to demand and receive in lieu of the allowance now made by law, seventeen cents for finding nails; which sums shall be paid and received in the same manner as the allowance already made for the same services.

Penalty on manufacturers of tobacco without giving bond.
How recoverable.

Proviso.

Inspector may inspect manufactured tobacco.

VIII. IF any person shall presume to manufacture tobacco without giving bond as required by law, he shall for every such offence forfeit and pay to the use of the commonwealth one hundred dollars, to be recovered before the court of the county or corporation within which such offender may reside, by action of debt or information, wherein the defendant shall be ruled to bail: *Provided*, That nothing herein contained shall be construed to extend to any person manufacturing tobacco of his own make. Every inspector of tobacco is hereby authorized and empowered to inspect any tobacco manufactured in the county wherein the warehouse at which he is appointed shall stand, and if in his opinion such tobacco be good, clean, and merchantable, he shall pass the same, stamp and mark the cask wherein it is packed or prized, and grant a certificate that the same hath been inspected according to law. He shall inspect no tobacco for which the manufacturer thereof shall not produce a manifest, but is hereby authorized and directed to seize such tobacco wherever it may be found, dispose thereof and pay the money arising therefrom into the public treasury.

Manufacturers to produce a manifest.

Revival of the inspection at Deacon's Neck

IX. AND whereas it is suggested that under the fifty-first section of the said recited act, the inspection of tobacco established at Deacon's-neck is discontinued: *Be it enacted*, That the said inspection shall be and is hereby revived and continued under the same regulations as inspections lawfully established.

Repealing clause.
Proviso.

X. SO much of all acts or parts of acts as contravenes the operation of this act, shall be, and the same are hereby repealed. *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been veited, or incurred prior to the commencement of this act.

Additional proviso.

XI. *AND provided also*, That the courts of the counties wherein any inspection of tobacco may be established, shall proceed to appoint the commissioners in this act mentioned, at the court holden for their respective counties in the months of January or February next.

Commencement of this act

XII. THIS act shall be in force, from the first day of January next.

CHAP. CCVIII.

An Act concerning Corporations.

[Passed the 22d of December, 1796.]

Licenses to sell by vendue in corporate towns, how obtainable.

I. **B**E it enacted by the General Assembly, That from and after the passing of this act, the mayor, aldermen, and commonalty of the several corporate towns within this commonwealth and their successors, shall upon request of any person or persons desirous thereof, grant licenses to exercise in such town the trade or business of an auctioneer: *Provided*, that no such license shall be granted until the person or persons requesting the same, shall enter into bond with one or more sufficient sureties, payable to the mayor, aldermen, and commonalty of such corporate town and their successors, in such penalty and with such condition as by the bye-laws and ordinances of such corporate town shall be required. *And provided also*, That any license which may have been heretofore granted by the supervisor of this district, shall remain in full force during the term for which the same was granted. And every person or persons so licensed, shall have the same powers, and be subject to the same regulations, and to the payment of the same sum as the vendue masters or auctioneers, appointed, or to be appointed by the mayor, aldermen, and commonalty of the several corporate towns, are liable and subject to.

Proviso.

Further proviso.

The powers of magistrates of corporations enlarged.

II. *AND be it further enacted*, That the magistrates of any corporate town shall have the same power to examine privily, and take the acknowledgement of a *feme covert* to a conveyance and to certify the same, as is by law given to justices of peace of a county; and the court of hustings for each corporation within this commonwealth shall have the same power to admit to record, au-

thenticated copies of wills, proved according to the laws of any of the United States or of countries without the limits of the same, as is given by law to the county courts.

CHAP. CCIX.

An Act to amend the Act, intituled, An Act against Usury.

[Passed the 23d of November, 1796.]

I. **BE** it enacted, That no person upon any contract entered into upon or after the first day of May next, shall take directly or indirectly, for loan of any money, wares or merchandize above the value of six dollars for the forbearance of one hundred dollars for a year, and after that rate for a greater or lesser sum or for a longer or shorter time; and all bonds, contracts, covenants, conveyances, or assurances thereafter to be made for payment or delivery of any money or goods so to be lent, on which a higher interest is reserved or taken than is hereby allowed, shall be utterly void.

Bonds, &c. for a greater rate of interest on money lent than herein allowed, void.

II. IF any person shall by any way, or means of any corrupt bargain, loan, exchange, shift, covin, device, or deceit, take, accept or receive for the loan, or giving day of payment for money, wares, merchandize, or other commodity above the rate of six dollars for one hundred dollars for one year, every person so offending, shall forfeit double the value of the money, wares, merchandize, or commodity so lent, exchanged, or shifted, one moiety to the use of the commonwealth, and the other to the informer, to be recovered with costs.

Penalty for taking above the rate of six per cent.

III. ANY borrower of money or goods, may exhibit a bill in chancery against the lender, and compel him to discover upon oath, the money or thing really lent, and all bargains, contracts, or shifts which shall have passed between them relative to such loan or the re-payment thereof, and the interest and consideration for the same, and if thereupon it shall appear that more than lawful interest was reserved, the lender shall be obliged to accept his principal money without any interest or consideration, and pay costs, but shall be discharged of all other penalties of this act.

Borrower may be relieved against the lender, by filing a bill in chancery.

IV. SO much of the said recited act, as comes within the purview of this act, shall be and the same is hereby repealed.

Repealing clause.

V. THIS act shall commence and be in force, upon the first day of May next.

Commencement of this act.

CHAP. CCX.

An Act concerning the Special Court of Appeals.

[Passed the 18th of November, 1796.]

WHEREAS by the act, intituled, "*An act for reducing into one act, the several acts concerning the court of appeals, and special court of appeals,*" it is, among other things, provided and enacted, that whensoever a majority, or all the judges of the court of appeals, shall be interested in any case in the said recited act, mentioned, the same shall be entered of record in the said court, and the clerk thereof shall, thereupon, issue a summons to the judge of the high court of chancery, and judges of the general court, requiring them, if not disqualified to sit in such case, to attend at the capitol in the city of Richmond, or in case of adjournment of the court of appeals to any other place, at such other place, on the twentieth day of June, or November, then next following, to constitute a special court of appeals, for the purpose of hearing and finally deciding such suit; but no provision is made for those cases, wherein it may happen, that the day, so to be appointed, shall happen to fall out upon a Sunday, which may be attended with great inconvenience.

Preamble.

I. **BE** it therefore enacted by the General Assembly, That whenever a summons hath been, or shall be issued, pursuant to the said recited act for assembling a special court of appeals, if the day to which summons is, or shall be made returnable, shall happen to fall out of a Sunday, such court shall be holden on the next succeeding day, in like manner as if the same had been the day named in the summons, and shall then proceed to hear, determine, and finally decide all suits, process, matters and things, submitted to their cognizance and jurisdiction, as if the same had been the twentieth day of the month, to which such summons is, or shall be made returnable,

Special court of appeals summoned to meet on a day which falls out on a Sunday, shall be holden on the next day.

Commencement of this act.

II. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCXI.

An Act to amend the Act for the relief of Persons who have been, or may be injured, by the Destruction of the Records of County Courts.

[Passed the 20th of December, 1796.]

Depositions taken in certain cases herein mentioned to be lodged with the clerk of county.

I. **B**E it enacted by the General Assembly, That all depositions which now are, or hereafter may be taken by virtue of an act, intituled, "*An act for the relief of persons who have been, or may be injured, by the destruction of the records of county courts,*" shall be lodged with the clerk of the county in which such accident may have happened, or shall hereafter happen, there to remain as evidence in all cases for establishing the right of the person or persons injured, when better evidence cannot be obtained.

Same relief given in the loss of district court records, &c. as in counties.

II. *And be it further enacted,* That where any person or persons shall have suffered, or may suffer by the destruction of records, or other papers, in district or corporation courts, the same relief shall extend to such person or persons as is given by this, and the above recited act, to sufferers by the destruction of records or other papers in counties.

Repealing clause.

III. SO much of the above recited act, as comes within the purview of this act, shall be, and the same is hereby repealed.

Commencement of this act.

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCXII.

An Act to amend the Act ascertaining the Salaries of the Officers of Civil Government.

[Passed the 20th of December, 1796.]

Salaries of certain officers of civil government, clerks, &c.

I. **B**E it enacted by the General Assembly, That the several officers herein after mentioned, shall receive for their salaries, in quarterly payments, after the same shall have been audited according to law; the governor of the commonwealth, the sum of three thousand three hundred and thirty-three dollars, and thirty four cents, *per annum*; the judges of the court of appeals, and the judges of the general court, each, the sum of fifteen hundred dollars, *per annum*; the auditor of public accounts, the sum of twelve hundred and fifty dollars, *per annum*; the register of the land-office, twelve hundred and fifty dollars, *per annum*; the treasurer, the sum of two thousand dollars, *per annum*; the first clerk of the treasurer, register, and auditor, the sum of six hundred and twenty-five dollars, *per annum*, each; and each of the other clerks of the treasury, and auditor, the sum of four hundred and sixteen dollars, and sixty-seven cents, *per annum*; the clerk of the council, six hundred and twenty-five dollars, *per annum*; and the assistant clerk of the council, four hundred and sixteen dollars, and sixty-seven cents, *per annum*. All which several sums shall be paid in specie, and the auditor is hereby authorized to audit the same, and issue his warrants upon the treasury accordingly.

Act herein mentioned repealed.

II. *AND be it further enacted,* That the act, intituled, "*An act, allowing travelling expenses to the judges of the general court,*" shall be, and is hereby repealed.

Repealing clause.

III. ALL and every act, or acts, clauses and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Commencement of this act.

IV. THIS act shall commence and be in force, from and after the first day of January next.

CHAP. CCXIII.

An Act concerning the Keepers of Public Jails.

[Passed the 20th of December, 1796.]

Preamble.

THE allowance at present made by law to the keepers of district, and county jails, for keeping and dieting persons committed to their custody, being, during the present price of provisions, unreasonably low:

I. *BE it enacted*, That the several district courts, shall be, and they are hereby empowered at each session, to order and direct such allowance to be made for the prisoners confined in the jail of such district, with whose support the commonwealth is by law chargeable, and to the keeper of such jail for his trouble, as to such court shall seem reasonable, provided the allowance so made, shall not exceed thirty-four cents *per day*, for each prisoner. The allowance made, shall be certified to the auditor after each session of the court, who shall debit the same, and issue a warrant on the treasurer, therefor.

District courts to regulate the allowance for dieting prisoners, &c.

II. THE keepers of county and corporation jails, shall be allowed for keeping and dieting each prisoner in their custody, with whose support the commonwealth is by law chargeable, so much as the courts of their respective counties and corporations shall judge reasonable, provided the allowance so made, shall not exceed that made by the court for the district, in which the county or corporation lies. The allowance shall be made after each session of the court for the district, and shall be certified to the auditor, who shall in like manner debit the same, and issue his warrant on the treasurer, for the payment thereof.

Courts of counties, &c. to make allowance to jailors for keeping prisoners, &c.

III. WHEREVER a creditor shall be liable to the jailor for prison fees, on account of his debtor, it shall be lawful for such jailor to charge the same fees, as may under this act be charged against the commonwealth.

Jailor's fees for keeping debtors.

IV. AND whereas, it is represented that in some instances, the court sitting next after the performance of the service, has failed to certify the allowance to which the keeper of the jail for the district, was by law entitled, and a subsequent court has doubted its authority to make the allowance and grant the certificate. *Be it enacted*, that in any such case, a subsequent court shall, and may proceed in like manner as the court next immediately succeeding the rendition of the service, might by law have proceeded.

Power of courts to make allowances for services in certain cases.

CHAP. CCXIV.

An Act to alter the Mode of Appointing and Commissioning Inspectors of Tobacco, in certain cases.

[Passed the 22d of November, 1796.]

WHEREAS by the existing law concerning the inspection of tobacco, it is enacted, that the courts of the several counties within the state, wherein any of the public warehouses are established, shall once in every year and no oftener, at their respective courts holden in the months of August or September, nominate, and recommend to the governor for the time being, for so many offices of inspection as are or shall be in their respective counties, four fit and able persons reputed to be skilful in tobacco, for the execution of the office of inspectors, which nomination the said courts shall cause to be entered upon record, and the clerks of the said courts, are thereby required forthwith, to transmit a certificate of the same to the clerk of the council; and that out of the said four persons nominated and recommended for each inspection, the governor, with the advice and consent of council, shall choose and appoint two to execute the office of inspectors at such inspection; and in case of the death, resignation or removal of any inspector, the governor shall appoint any person named in the last recommendation from the county court, for that inspection where the vacancy shall happen, to succeed him until the next nomination and appointment of inspectors:

Preamble.

AND whereas, under the operation of the said law, the executive of this state have had occasion to remove from office inspectors of tobacco; and the additional persons nominated by the county courts, for the execution of the office of inspectors at the warehouse in which the removal took place, are supposed in one instance, unable to give bond for the due performance of their office, and in another, have been absent from this commonwealth at the time when the said removal took place; and the executive in that instance, have found themselves unable to appoint under the said law, any other than the individuals before recommended, and the courts of the counties are in like manner unable, before the months of August or September succeeding the removal of the said inspectors, to recommend other persons to the executive as inspectors; whereby the warehouse in question may for a considerable time be shut up for want of inspectors to the same, to the great detriment of the public and of individuals; for remedy whereof,

Power and authority of the executive to appoint inspectors in certain cases.

I. *BE it enacted*, That in any case where the executive shall have heretofore removed, or shall hereafter remove any inspectors of tobacco from office, and the additional persons nominated to them by the court of the county, or either of them, shall be unable to give security for the execution of their office, or shall, from information given to the executive, be conceived by them unfit to discharge the functions of the said office, or shall be absent from this commonwealth, the executive shall have full power and authority, to appoint any other two persons in the county where such warehouses are, to act as inspectors of the same, until the next nomination and appointment of inspectors by the court of the county; any thing in the said law to the contrary, notwithstanding.

Commencement of this Act.

II. *THIS* act shall commence and be in force, from and after the passing thereof.

CHAP. CCXV.

An Act to amend an act, intituled, "An act to amend the act, for reducing into one, the several acts concerning the Land-Office, ascertaining the terms and manner of granting waste and unappropriated Lands, for Settling the Title and Bounds of Lands, directing the Mode of Proceffioning, and prescribing the Duty of Surveyors."

[Passed the 18th of November, 1796.]

Act herein mentioned, I. how construed.

BE it enacted by the General Assembly, That so much of the second section of an act, intituled, "*An act to amend the act, for reducing into one, the several acts concerning the land office, ascertaining the terms and manner of granting waste and unappropriated lands, settling the titles and bounds of lands, directing the mode of proceffioning, and prescribing the duty of Surveyors,*" as relates to surveys or locations of land, shall be construed to extend only to such surveys or locations, as have been, or shall be made, after the last day of December, one thousand seven hundred and ninety-five. And the register is hereby directed to proceed on all surveys, made prior to the first day of January, one thousand seven hundred and ninety-six, agreeably to the laws in force at the time of such surveys made.

Further time allowed to appoint proceffioners.

II. *BE it further enacted*, That where it has happened that any court within this commonwealth, hath neglected to appoint proceffioners at the courts heretofore appointed by law, that they have the further time of six months from the passage of this law, to make such appointments; and that they be authorised to appoint proceffioners at any court, within the said period of six months.

Repealing clause.

III. *BE it further enacted*, That the third section of the law aforesaid, be, and the same is hereby repealed.

Commencement of this act.

IV. *THIS* act shall commence and be in force, from and after the passing thereof.

CHAP. CCXVI.

An Act for lengthening the Terms of Session of certain District Courts.

[Passed the 21st of December, 1796.]

Preamble.

WHEREAS the time allowed for the sitting of the district courts, holden in the towns of Frederickburg, Dumfries, and Winchester, is not sufficient for the transacting of the business in said courts:

Terms of certain district courts herein mentioned may be extended, when holden, &c.

I. *BE it enacted*, That the said courts respectively, shall sit if business require it, fifteen days, Sundays exclusive, unless such sitting shall interfere with some other district court, in the same circuit; and to enable the judges to comply with this law, *Be it further enacted*, that the district court holden at Dumfries, shall be held on the eighteenth day of May and October in every year; that the district court holden at Winchester, shall be held on the fifteenth day of April, and on the twenty-ninth day of September, in every year; and the District Court holden at Morgan-Town, shall be held on the fifteenth day of May, and on the fifteenth day of September, in every year.

Provision in case day of meeting be Sunday. Brunswick and Petersburg district courts.

II. *AND* if any of the said several days be Sunday, the court shall in that case respectively, begin on the succeeding day.

III. *AND be it enacted*, That the district court, holden at Brunswick courthouse, shall be held on the second day of May, and the second day of Octo-

ber in every year, instead of the twenty-ninth of April, and the twenty-ninth day of September, in every year; and if either of the said days be Sunday, the court shall in that case begin on the succeeding day. *And be it further enacted*, that the district court holden at Petersburg, shall sit if business require it, fifteen days, Sundays exclusive, unless such sitting shall interfere with some other district court in the same circuit.

when holden, &c.

CHAP. CCXVII.

An Act concerning County Levies, Poor Rates, and Clerks' Fees.

[Passed the 19th of December, 1796.]

I. **B**E it enacted by the General Assembly, That the duties required of the justices of the several county courts, by the seventh section of the act, "Concerning tithables, directing the mode of laying and collecting the county levy," shall be, and the same is hereby required to be done and performed, in the months of September or October, annually, or as soon after as may be, if no court should be held in either of those months, instead of the months of June or July, annually.

Duties required by this act to be done in September or October,

II. *AND be it further enacted*, That the sheriff or county collector, shall account with, and satisfy the county creditors, on or before the first day of October in every succeeding year, after the levy shall be laid, under the same regulations and penalties, as is prescribed by the ninth section of the act aforesaid, any thing in any law to the contrary notwithstanding.

When sheriffs shall account with county creditors.

III. *AND be it further enacted*, That the annual meeting of the overseers of the poor in every county, shall be held on the first Monday in September, instead of the first Monday in March, in every year; but if the number required by law, shall not assemble on that day, it shall be lawful for a sufficient number to meet and perform the business on any subsequent day in the said month; observing in all other respects the regulations required by "An act providing for the poor, and declaring who shall be deemed vagrants."

Time of annual meeting of the overseers of the poor.

IV. *AND be it further enacted*, That every sheriff of every county, and every serjeant of every corporation, shall, on or before the first day of September, instead of the last day of May, in every year, account with the clerks of the respective district, high court of chancery, county and corporation courts, and the respective surveyors, for all fees put into his hands to collect, and pay the same, abating six per centum for collecting, pursuant to the "Act reducing into one, the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees, and county levies."

When sheriffs shall account with clerks of courts.

V. *AND be it further enacted*, That the county levies, poor rates, the fees of the respective clerks of the district, high court of chancery, county and corporation courts, and the respective surveyors' fees, shall be distrainable the first day of May in every year, instead of the time prescribed by law.

Levies, &c. when distrainable.

VI. *AND be it further enacted*, That the judges of the several district courts, shall make such allowance from time to time, to the respective clerks of the district courts, as they shall think reasonable for future public services, not heretofore provided for by law, which allowances when made and audited, shall be paid by the treasurer, out of any public money in his hands, not otherwise appropriated.

District courts to make allowance to clerks for public services.

VII. THIS act shall commence and be in force from and after the first day of May next.

Commencement of this act.

CHAP. CCXVIII.

An Act to amend the Act, intituled, An Act to amend the act, to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy.

[Passed the 21st of December, 1796.]

I. **B**E it enacted by the General Assembly, That from and after the passing of this act, the several benefits and provisions contained in an act of the general assembly, passed on the third day of December, in the year one thousand seven hundred and ninety-four, intituled, "An act to amend the act, to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible or stolen marriages; and for punishment

Benefit of the act here in recited extended to the counties of Ohio and Brooke.

Persons to be appointed
with authority to solemnize
the rites of marriage;

And

shall qualify as in other
cases.

Repealing clause.

Licenses to be issued by
clerks.

Commencement of this
act.

of the crime of bigamy," shall in like manner, be extended to the counties of Ohio, and Brooke.

II. THE court of each of the said counties, shall appoint two persons, being actual residents of that county in which they shall be appointed, who shall have full power to celebrate the rites of marriage in that county wherein they respectively reside, and have been so appointed: and in case of the death or removal out of the county of any of those persons, it shall be lawful for the court of that county, wherein such person or persons reside, to appoint others in their stead, in like manner and with the like powers as those originally appointed.

III. ALL and every person or persons as aforesaid appointed for the said purpose, shall qualify themselves in like manner, shall discharge the like duties, be subject to the like penalty or penalties, for breach thereof, and shall be entitled to the like fees, as are directed and prescribed by the said recited act, in like manner as if the same were herein particularly recited and expressed.

IV. AND be it further enacted, That so much of the act passed on the twenty second day of December, one thousand seven hundred and ninety-two, intituled, "*An act to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy,*" as requires the clerks of county courts to certify to any justice of the peace, that bond is given for the obtaining of marriage license, and that the father or guardian hath consented to the issuing such license; and also so much of the said recited act, as requires a justice of the peace to sign such license, is hereby repealed. And it is hereby declared, that a license issued by the clerk of any county court, agreeably to the other requisites of the above recited act, shall be deemed sufficient authority for any duly authorized person to solemnize such intended marriage. And in case any clerk shall issue a license in any other manner, he shall be subject to the same penalty, to be recoverable in like manner, as directed under the above recited act.

V. THIS act shall commence and be in force, from and after the first day of May, one thousand seven hundred and ninety-seven.

CHAP. CCXIX.

An Act to amend the Act concerning Public Roads.

[Passed the 10th of December, 1796.]

Surveyors of roads notified
of their appointment by the sheriff.

Penalty on sheriff in
case of failure.

Fines, &c. herein imposed,
how recovered and appropriated.

Repealing clause.

Commencement of this
act.

I. BE it enacted by the General Assembly, That the clerk of every county court, shall within ten days after the appointment of any surveyor of a road, deliver a copy of the order of his appointment to the sheriff of the county, under the penalty of five dollars, and the sheriff shall before the next court to be held for the said county, after the receipt of such order, deliver a copy thereof to the surveyor, if to be found within the county, and return the original to the clerk's office, with an endorsement thereon, stating the truth of the case, under the penalty of five dollars, which in all cases shall be conclusive evidence of such surveyor having notice of his appointment.

II. THE fines and penalties hereby imposed, shall be recoverable and appropriated in like manner, as the fines and penalties imposed under the act, intituled, "*An act concerning Public Roads.*"

III. SO much of an act "*Concerning Public Roads,*" as comes within the purview of this act, shall be, and the same is hereby repealed.

IV. THIS act shall commence and be in force, from and after the first day of March next.

CHAP. CCXX.

An act to amend the act, intituled, an act, to empower the Freeholders of the several towns not incorporated, to supply the vacancies of the Trustees and Directors thereof.

[Passed the 27th of December, 1796.]

Vacancies in the office
of trustee of a town by
removal out of the

I. BE it enacted, That the office of any trustee or director of any town within this commonwealth, shall become vacant by the removal of such trustee or director out of the county, within which such town may be, and

that vacancies so happening, shall be supplied in like manner as is directed by the act, intituled, "An act to empower the freeholders of the several towns not incorporated, to supply the vacancies of the trustees and directors thereof."

II. THIS act shall commence and be in force, from and after the passing thereof. Commencement of this Act.

General Assembly, begun and held at the Capitol, in the City of Richmond, on Monday, the 4th Day of December, in the Year of our Lord, 1797.

1797.

CHAP. CCXXI.

An Act to amend the act, intituled, An Act to prevent Unlawful Gaming.

[Passed the 19th of January, 1798.]

I. **B**E it enacted, That all monies exhibited for the purpose of alluring persons to bet against, at any game, and all monies actually staked or betted whatsoever shall be liable to seizure by any magistrate or magistrates, or by any other person or persons under a warrant from a magistrate, wheresoever the same may be found; and all such monies so seized shall be accounted for and paid by the person or persons making the seizure to the court of the county or corporation wherein the seizure shall be made, and applied by the court in aid of the levies and poor rates, deducting thereout fifty per centum upon all monies so seized, to be paid to the person or persons making the said seizure.

Monies exhibited for the purpose herein mentioned, liable to seizure.

II. *AND be it further enacted*, That all billiard tables shall be liable to be seized and publicly burnt or destroyed, in the same mode as A B C, and other gaming tables may be destroyed under the eleventh section of the act, intituled, "An act reducing into one the several acts to prevent unlawful gaming."

Billiard tables &c. may be seized and burnt.

III. ANY person whatsoever who shall suffer the game of billiards, or any of the games played at the tables commonly called A B C, E O, or Faro bank, or any other gaming table, or bank of the same or the like kind, under any denomination whatever, to be played in his or her house, or in a house of which he or she hath at the time the use or possession, shall, for every such offence, forfeit and pay the sum of one hundred and fifty dollars, to be recovered in any court of record, by any person who will sue for the same.

Penalty for permitting games herein mentioned to be played.

IV. *WHENEVER* a judgment shall be obtained for any fine incurred by a breach of any law for preventing gaming, twenty dollars shall be taxed in the bill of costs for a lawyer's fee.

Fee to be taxed on judgments for breach of laws against gaming.

V. ANY person or persons who shall oppose the seizure of any such monies as above described, by any person or persons so authorized to make it, shall be liable to a penalty of fifteen hundred dollars, to be recovered in any court of record, for the use of the commonwealth, and shall be moreover liable to the action of any party grieved by such opposition; and any person or persons who shall take or carry away any part of the said money after the said seizure shall be declared, shall be guilty of a misdemeanor.

Penalty for obstructing seizures of monies under this act.

VI. *AND be it further enacted*, That the power of the executive to remit fines on judgments, shall not extend to fines such as may accrue or be imposed in the execution of this or any other act against gaming.

No release from fines incurred by gaming.

VII. *AND be it further enacted*, That the judges of the general and district courts, and the said courts, shall be, and they are hereby empowered, to execute this, and all other laws for the purpose of suppressing gaming, as fully as the magistrates of the county courts, and the said county courts, are empowered to execute the said laws.

Judges to execute this and other acts against gaming.

VIII. THE presiding justice, as well in the district as in all the inferior courts of law in this commonwealth, shall constantly give this act in charge to the grand-juries of their courts, at the times when such grand-juries shall be sworn.

This act to be given in charge to grand juries.

IX. THIS act shall commence and be in force, from and after the eighth day of March next.

Commencement of this act.

CHAP. CCKXII.

An Act to amend the Act, intituled an Act to amend the Act intituled, an act to reduce into one, the several acts concerning Slaves, Free Negroes, and Mulattoes.

[Passed the 25th of January, 1798.]

Preamble -

WHEREAS it is deemed essential to the public safety, that adequate provision should be made by law for the punishment of such free persons as may be guilty of advising or conspiring with any slave, to rebel or make insurrection, or who shall be guilty of plotting with a slave the murder of any person whatsoever.

Free persons convicted of exciting slaves to insurrection or murder, shall suffer death :

I. *BE it enacted*, That every free person who shall hereafter advise or conspire with a slave to rebel, or make insurrection, or who shall advise or assist such slave in the murder of any person whatsoever, shall be adjudged a felon, and upon conviction thereof by due course of law, shall suffer death without benefit of clergy.

Penalty on free persons convicted of harbouring slaves.

II. *AND be it further enacted*, That all free persons who shall be convicted before any magistrate of a county or corporation court, of harbouring or entertaining any slave without the consent of his or her master, mistress or overseer, shall forfeit and pay immediately the sum of ten dollars to the use of the informer, and in case of failure to make payment thereof, to be required by the magistrate before whom such person shall be brought, to give bond and security for his or her appearance at the next court to be holden for the said county or corporation, and in the mean time to be of good behaviour, or to stand committed until the same shall be performed. And in case the person so offending shall be a free negro or mulatto, and shall be unable to pay the said sum, then to receive such corporal chastisement, not exceeding thirty-nine lashes, as the magistrate shall determine upon.

Penalty on free negroes, &c. guilty of like offence.

Members of societies instituted for emancipating slaves, disqualified as jurors in suits for their freedom. *Provido.*

III. *AND be it further enacted*, That in all cases wherein the property of a person held as a slave demanding freedom, shall come before a court for trial, no person who shall be proved to be a member of any society instituted for the purpose of emancipating negroes from the possession of their masters, shall be admitted to serve as a juror in the trial of the said cause : *Provided also*, That every petition or suit instituted for the emancipation of a person held as a slave, shall be tried at the next quarterly or district court succeeding such petition or suit, unless it shall appear to the said court, by good cause shewn, that the evidence necessary for the support thereof could not be obtained.

How slaves convicted of felony and making escape, may, if re-taken, be identified : shall undergo the sentence of the court, &c.

IV. *AND* whereas doubts have arisen whether the powers of the magistrates of county and corporation courts, summoned as courts of oyer and terminer to decide upon the cases of slaves charged with the commission of felony, can extend to the identifying of such slaves, who shall escape after condemnation and before the day of execution, and are re-taken, *Be it further enacted*, That in all such cases, it shall and may be lawful for the sheriff to summon the magistrates of the county or corporation, for the purpose of identifying such criminal, in like manner as the court was summoned for his or her trial, and upon such identity being proven, to carry into effect the sentence of the former court, by ordering such farther day for the execution of the said slave, as to them shall seem proper.

Free negroes or mulattoes giving copy of the register of his freedom to a slave, shall be adjudged a felon.

V. *AND* whereas divers free negroes and mulattoes who have been registered and numbered agreeably to the act of Assembly in that case made and provided, and who have obtained copies of the said registers as by the said act is required, have granted their said copies to run-away slaves, who by virtue thereof have passed for free men, and have under sanction thereof prevailed on masters of vessels to transport them out of this commonwealth : For remedy whereof, *Be it enacted*, That any free negro or mulatto who shall deliver to any slave the copy of the register of his or her freedom, signed by the clerk of the court with whom the said register was made, on any pretext whatsoever, shall on conviction thereof, be adjudged a felon, and suffer accordingly.

Masters or skippers of vessels prohibited from carrying slaves out of the state, without complying with the requisites of this act.

VI. NO master or skipper of a vessel, shall hereafter transport, or attempt to transport any negro or mulatto out of this commonwealth, on any pretext whatsoever, until he shall have produced the said negro or mulatto before some magistrate of a county, adjoining to the river in which his vessel shall lie, and shall have made out and lodged with the said magistrate, a description of the said negro or mulatto, his or her name, probable age, and alleged place of

birth, and a declaration of the place or port to which the said master or skipper may be bound, and until he shall also have produced to the said magistrate the certificate of freedom granted to the said negro or mulatto by the clerk of the court in which he or she was registered, or the written direction of the owner of such negro or mulatto, commanding or permitting such master or skipper to carry him or her out of this commonwealth. And when the said master or skipper shall so have done, it shall be the duty of the magistrate to grant him a written certificate thereof.

VII. EVERY master or skipper of a vessel neglecting or refusing to perform the requisites by this act imposed, shall forfeit and pay the sum of five hundred dollars, for every negro or mulatto by him so carried or attempted to be carried out of this commonwealth, to be recovered by action of debt by any person who will sue for the same, in which suit the said master or skipper shall give good bail, and shall be moreover liable to the action of the owner of such negro or mulatto, for the value of the negro or mulatto thus carried or attempted to be carried out of the commonwealth.

Penalty on such master or skipper for violations of this law.

CHAP. CCXXIII.

An Act enlarging the Right of Appeals in certain Cases.

[Passed the 23d of January, 1798.]

I. **B**E it declared and enacted by the General Assembly, That it shall be lawful for the high court of chancery, upon any interlocutory decree, where the right claimed shall have been affirmed or disaffirmed, to grant, in its discretion, an appeal to the court of appeals, if the high court of chancery shall be of opinion, that the granting of such appeal will contribute to expedition, the saving of expense, the furtherance of justice, or the convenience of parties, any law, custom, usage, or construction to the contrary notwithstanding.

High court of chancery may grant appeals upon interlocutory decrees to court of appeals.

II. *AND be it further enacted.* That all appeals from the high court of chancery, which were standing on the docket of the court of appeals on the tenth day of October, in the year one thousand seven hundred and ninety-seven, or which were granted therefrom to the term of the court of appeals, commencing in October of the said year, one thousand seven hundred and ninety-seven, shall be considered as depending therein; unless for good cause shewn to the high court of chancery, at the March term thereof, in the year one thousand seven hundred and ninety-eight: and according to the principles of its practice, any cases in which appeals have been entered, and which may have been remitted to the high court of chancery, shall be there retained for further proceedings.

Appeals from high court of chancery on docket of court of appeals, or granted therefrom at certain defined periods as depending therein—Nisi, &c.

III. *AND be it further enacted,* That upon any interlocutory decree of the high court of chancery, which shall not be appealed from, or upon any such interlocutory decree which shall be appealed from and affirmed, such process of execution shall be awarded as to the high court of chancery, or the judge thereof in vacation, shall seem proper.

Execution may be awarded in vacation on interlocutory decrees.

IV. *AND be it further enacted,* That it shall be lawful for the judge of the high court of chancery to discharge writs of ne exeat in vacation, as in term time. *Provided,* that the party moving for the discharge of any such writ, shall give to the party who obtained it, reasonable notice of the time when such motion will be made.

Writs of ne exeat may be discharged in vacation on notice to the party who obtained it.

CHAP. CCXXIV.

An Act to amend the several acts of Assembly, concerning Escheators.

[Passed the 23d of January, 1798.]

I. **B**E it enacted by the General Assembly, That whenever the escheator of any county shall proceed to make sale of any land escheated according to the directions of an act, concerning escheators, and an act, *To amend an act, intituled, An act concerning escheators,* for ready money, and any person who may become a purchaser thereof, shall not, on the day of sale, pay to the escheator the whole sum of money by him agreed to be given for such land, or give some satisfactory assurance, that the same will be paid in a few days thereafter, the escheator shall immediately on such failure, on the same day, again expose the

Purchasers of escheated property failing to pay the money—the escheator may re-sell the same.

Escheator may sell property on credit—taking a deed of trust, bond, &c.

Shall certify the same to the register.

Such deed of trust to be recorded and a copy thereof and of the bond to be transmitted to the auditor—duty of escheator if the bond is not discharged.

Escheator shall make return of his proceedings to the auditor—commissions allowed him, &c.
Duty of auditor if sale made under the trust shall not produce the sum due.

Escheators neglecting to account with public, subject to like penalties as sheriffs.

Effect of this upon recited acts.

Commencement of this act.

same to sale to the highest bidder, for ready money, and at such second sale, the person failing to make payment at the first sale as aforesaid, shall not be admitted or regarded by the escheator as a bidder.

II. AND whereas doubts have arisen, whether by either of the said recited acts the escheator is authorised to sell the land escheated upon credit, for any time whatever, although in his opinion the same would enhance the value thereof: *Be it further enacted*, That when in the opinion of the escheator of any county, the sale of any escheated land upon credit will greatly enhance the price thereof, he may proceed to sell the same upon such credit as he may think reasonable, not exceeding two years, taking of the purchaser a deed of trust in behalf of the commonwealth, for the lands so purchased, and a bond with sufficient security, bearing interest, to be approved by him, payable to the governor or chief magistrate of this commonwealth, for the time being, and his successors. And the escheator shall, immediately after taking such deed and bond, certify to the register of the land-office, the name of the purchaser, and the price by him agreed to be given for such land, and that a deed of trust for the lands so purchased and a bond, with sufficient security, to secure the payment of the purchase money, hath been given by such purchaser; whereupon the register of the land office shall proceed to have a grant executed to such purchaser, in the manner directed by the first recited act.

III. AND the escheator shall as soon as possible, have the said deed recorded in the court of the county or corporation wherein the lands lie; and shall transmit to the auditor the said bond and a copy of the deed, to be lodged in his office, and if the purchaser shall fail to pay the purchase money and interest in due time, according to the tenor of the said deed and bond, the said escheator is hereby required forthwith to proceed to sell the lands so conveyed in trust, (having first given four weeks notice of the time and place of such sale, in some public gazette) for ready money, and out of the proceeds of such sale, shall pay into the treasury, the principal money and interest due to the commonwealth, and all costs and expenses incurred in effecting such sale, and the surplus, if any, he shall pay to the original purchaser.

IV. AND the escheator is hereby required, as soon as may be, to make and return to the auditor, an account of all his proceedings in the sale, and to pay into the treasury the amount of the sale, deducting thereout for his trouble the same commissions as are allowed to sheriffs on sales made under executions; and if the proceeds arising from such sale shall not be sufficient to pay the principal, interest, and expenses of sale, then it shall and may be lawful for the auditor, having given ten days notice to the obligors in the bond, upon motion made in the general court, (which court is hereby authorised and required to render judgment thereon, due notice being proved) to obtain judgment against the said obligors, or such of them as shall have had notice of such motion, for the balance which shall remain unpaid out of the proceeds of the sale of the land conveyed in trust, and all costs attending such motion, upon which judgment, execution shall be issued and levied according to the forms of law in ordinary cases of judgment.

V. AND if the escheator shall fail to pay the money into the treasury which he shall receive, upon making sale of any tract of land which shall have escheated to the commonwealth as aforesaid, within one month after such sale, then it shall be lawful for the auditor to proceed to obtain judgment against him for the like forfeitures, penalties and fines, and in the same manner as is allowed in the case of coroners and sheriffs failing to pay public dues.

VI. THIS act shall not be construed to repeal any part or parts of the aforesaid acts, other than such as are rendered nugatory by the express directions of this act.

VII. THIS act shall commence and be in force from and after the passing thereof.

CHAP. CCXXV.

An Act to amend the several acts for regulating the Inspection of Flour and Bread.

[Passed the 22d of January, 1798.]

Inspectors of bread to be appointed.

I. **B**E it enacted by the General Assembly, That the courts of the several counties wherein inspections of flour are established, shall, at their

courts to be held in the months of September or October in every year, nominate and appoint at such places, from whence bread shall be exported, a proper person as an inspector thereof.

II. IT shall be the duty of every person owning or attending a mill for the manufacture of flour, to brand the barrel with the No. 2.

III. *AND be it further enacted*, That so much of the seventh section of the act passed in the year one thousand seven hundred and ninety-two, intituled, *An act reducing into one, the several acts for regulating the Inspection of Flour and Bread*, as imposes a fine on millers and bolters for packing in each barrel and half barrel, a less quantity of flour than is by law directed, shall be so changed, as to impose the said fine on the person or persons offering the flour for inspection. *Provided however*, That such person or persons may by warrant, petition, or suit, as the case may require, recover of the miller or bolter, the amount of the fine so paid by him or them.

IV. ALL the acts and parts of acts relating to the inspection of flour and bread, imposing any fine, a part whereof shall be to the use of the informer, shall be so changed, as that no part of such fine shall go to the informer, provided he shall be an inspector.

V. THE several inspectors of flour and bread shall appoint deputies, who shall be approved of by the courts of their respective counties, if they shall think them qualified for such appointments. And it shall be the duty of the inspectors of flour and bread to publish quarterly, a list of the quantities and qualities thereof inspected by them.

VI. *AND be it further enacted*, That at the place known by the name of Madison's mill, in the county of King and Queen, an inspector of flour shall be appointed in the same manner and under the like regulations, as are directed and prescribed by the before recited act.

VII. *AND* all and every act and acts, clauses and parts of acts coming within the purview and meaning of this act, shall be and are hereby repealed.

Manufacturers of flour shall brand the barrel No. 2.

Repealing part of act herein recited.

Proviso.

Inspectors informing of breach of any inspection law shall have no part of fine incurred.

To appoint deputies and publish the quantity of flour inspected by them quarterly.

Inspector to be appointed in King & Queen county.

Repealing clause.

CHAP. CCXXVI.

An Act to amend the act, intituled, An act to reduce into one the several acts, concerning the County and other Inferior Courts of this Commonwealth.

[Passed the 20th of January, 1798.]

I. **B**E it enacted by the General Assembly, That in all suits hereafter instituted on the chancery side of a county or corporation court within this commonwealth, it shall and may be lawful for the clerk thereof, in all cases where there shall be more than one defendant in such suit, to issue process against such of the defendants as do not reside within the said county or corporation, directed to the sheriff or serjeant of any county or corporation within this commonwealth, upon whose return, the same proceedings shall take place, as if the process had been served by the proper officer of such county or corporation court.

Process against defendants not resident in the county wherein a suit in chancery may originate, may be directed to any other county, &c.

II. *AND be it further enacted*, That the several county and corporation courts at their quarterly and monthly sessions shall have concurrent jurisdiction in the trial of all chancery causes therein depending; any law to the contrary notwithstanding.

Jurisdiction in chancery causes extended to monthly courts.

III. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CCXXVII.

An Act to amend the act providing for the Poor, and declaring who shall be deemed Vagrants.

[Passed the 23d of January, 1798.]

I. **B**E it enacted by the General Assembly, That whensoever any county or corporation shall neglect or fail to appoint persons, at the time prescribed by law, to superintend the elections of overseers of the poor, every

Persons to superintend or supply vacancies in office of overseers of the

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poor may be appointed at any court.

court where such failure may happen, shall be, and it is hereby empowered and required to make such appointment at any subsequent court, or to fill the vacancy in the office of an overseer or overseers of the poor at any court after the same shall happen.

Commencement of this act.

II. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCXXVIII.

An Act concerning the Title of the Commonwealth to Lands which have been settled more than Thirty Years.

[Passed the 24th of January, 1798.]

Preamble.

WHEREAS it hath been represented to the General Assembly, that many persons possessing lands in this commonwealth, have been vexed and harrassed by the location of warrants on the same, as if they were still waste and unappropriated, although the present possessors thereof, and those under whom they claim, have held the said lands in quiet and peaceable enjoyment, and have paid quit rents therefor under the former government, and all taxes imposed under the authority of the commonwealth, for more than thirty years: And whereas it is unreasonable to presume, that persons who have been thus long possessed under the circumstances aforesaid, should not have obtained patents for the same, especially as it has happened from the war and other causes, that patents actually granted have been lost or destroyed, and repeated alienations have been made of the said lands:

Entries or locations heretofore made, not affected by this act.

I. BE it therefore enacted, That no entry or location on any lands in this commonwealth, which have been settled thirty years prior to the date of such entry or location, and upon which quit-rents or taxes can be proved to have been paid at any time within the said thirty years, shall be deemed valid; and any title which the commonwealth may be supposed to have thereto, is hereby relinquished.

Cases wherein this act shall not apply

II. THIS act shall not extend to any case of an entry or location regularly made according to law, previous to the passing of this act. *Provided always,* That nothing herein contained shall be so construed as to affect the right of this commonwealth in or to any lands or tenements, the right whereof may or shall have become forfeited by non-payment of the commonwealth's taxes; nor shall any thing herein contained be so construed as to alter or change the construction of the act for limitation of real actions.

CHAP. CCXXIX.

An Act declaring the Gold and Silver Coins, of certain Foreign Countries, to be a legal Tender within this Commonwealth.

[Passed the 19th, of January, 1798.]

Gold and silver coins of France, Portugal, Spain, and Great Britain, declared a legal tender in this commonwealth, at rates herein mentioned.

I. BE it enacted by the General Assembly, That the gold and silver coins of the foreign countries hereafter mentioned, shall pass current within this commonwealth, and be a legal tender for the payment of all debts, contracts, and demands whatsoever therein, at the several and respective rates following, as established by the present law of Congress, and not otherwise, viz: The gold coins of Great Britain and Portugal, of their present standard, at the rate of one hundred cents for every twenty-seven grains of the actual weight thereof; the gold coins of France and Spain, and the dominions of Spain, of their present standard, at the rate of one hundred cents for every twenty-seven grains, and two fifths of a grain of the actual weight thereof; Spanish milled dollars at the rate of one hundred cents for each dollar, the actual weight whereof shall not be less than seventeen penny weights and seven grains, and in proportion for the parts of a dollar; crowns of France at the rate of one hundred and ten cents for each crown, the actual weight whereof shall not be less than eighteen penny weights and seventeen grains, and in proportion for the parts of a crown.

Commencement of this act

II. THIS act shall commence and be in force from and after the passing thereof.

CHAP. CCXXX.

An Act authorising Creditors of deceased Persons, leaving Lands which escheat to the Commonwealth, to recover their Debts out of the Proceeds thereof.

[Passed the 29th of December, 1797.]

I. **B**E it enacted by the General Assembly, That whensoever any person dies seized of lands, which shall be escheated for the benefit of the commonwealth, being indebted, and not having slaves or other personal estate sufficient to pay such debts, it shall and may be lawful for the general court, on the petition of his or her creditor or creditors, to give judgment for such debts or so much thereof as shall be by legal testimony established, to be paid out of the proceeds of such escheated lands, until the same shall be exhausted; to all which petitions the treasurer, for the time being, shall be made defendant: *Provided*, That the said slaves and other personal estate shall be previously applied in the payment of the debts of the said decedent; and that every such creditor shall annex an affidavit to the said petition, stating that the amount of his or her demand is bona fide due and owing at the time of preferring the petition.

Creditors of deceased persons, leaving lands which escheat to the state, and no other property, may recover their debts out of proceeds thereof.

Proviso.

II. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act.

CHAP. CCXXXI.

An Act directing the Mode of serving Writs of Scire Facias.

[Passed the 18th of January, 1798.]

WHEREAS the manner of serving writs of scire facias, as heretofore practised, has been found inconvenient:

Preamble.

I. *BE it therefore enacted by the General Assembly*, That where the defendant can be found, writs of scire facias shall hereafter be served in the same manner, as writs of capias ad respondendum. And where the said defendant cannot be found, it shall be considered as a sufficient service of the said writ, for the sheriff or other officer to whom the same is directed, to leave a copy thereof with the wife of the defendant, or some free person above the age of sixteen years, then and there being one of the family of the defendant, and found at his usual place of abode: *Provided always*, That bail shall not be required by the officer serving a writ of scire facias; and that this act shall not be construed to repeal the act, authorising writs of scire facias to be issued to, and executed in counties or districts, other than those in which judgments may have been obtained.

Writs of scire facias to be served in same manner as writs of capias ad respondendum.

Proviso.

II. THIS act shall commence and be in force from and after the first day of May next.

Commencement of this act.

CHAP. CCXXXII.

An Act to amend the Act concerning Election of Members of General Assembly.

[Passed the 17th of January, 1798.]

I. **B**E it enacted, That so much of the act, intituled, *An act concerning election of members of General Assembly*, passed in December, one thousand seven hundred and eighty-five, as provides, that no trial of a contested election of members of either house of Assembly, shall be had within less than fourteen days after complaint lodged with the speaker of either house of assembly, shall be, and the same is hereby repealed.

Repealing part of former act relative to contested elections.

II. *AND be it further enacted*, That from and after the first day of January next, the election of members to the General Assembly shall be held on the third Monday in March in every year, throughout this commonwealth; any law to the contrary notwithstanding.

Election of members of assembly, when holden.

III. IF the poll to be held at any such elections is not closed on the first day, the same shall be kept open two days thereafter at least.

Concerning the poll at elections.

Electors in towns entitled to representation, may vote for members to congress.

IV. *AND be it further enacted*, That electors in towns entitled to representation in the house of delegates, shall have a right to vote at their respective court-houses for representatives to congress, and the officers holding such elections, shall be subject to the like regulations in taking and returning their polls, as the sheriffs of counties are, and shall be entitled to the like compensation for their services and travelling expenses.

CHAP. CCXXXIII.

An Act to prevent the Clerks of District Courts from acting as Justices of the Peace.

[Passed the 12th of January, 1798.]

Clerks of district courts prohibited from acting as justices of the peace.

I. **B**E it enacted by the General Assembly, That it shall not be lawful for any clerk of a district court to exercise the office of a justice of the peace; and any clerk so offending, shall be subject to the same penalties, to be recovered and applied in like manner with those incurred by persons presuming to act as magistrates, without first qualifying as the law directs.

Commencement of this act.

II. THIS act shall commence and be in force from and after the first day of June next.

CHAP. CCXXXIV.

An Act concerning Hawkers and Pedlars.

[Passed the 18th of January, 1798.]

Pedlars prohibited selling goods without license.

I. **B**E it enacted by the General Assembly, That no hawker or pedlar, shall offer for sale or barter, any goods, wares, or merchandize, unless such person or persons so offering the same, shall have first obtained a license from some court of record in this commonwealth, which license the county and corporation courts are hereby authorized to grant, on satisfactory proof appearing to them of the honesty and good demeanor of the person applying, and on his paying to the sheriff or serjeant of the court granting such license, twenty dollars, which license shall be annually renewed.

Penalty for selling without license.

II. ANY person offering for sale or barter, any goods, wares, or merchandize, as a hawker or pedlar, without producing a license as aforesaid, shall forfeit and pay fifty dollars, to be recovered by action of debt or information in any court of record within this commonwealth, one moiety to the use of the informer, and the other to the use of the commonwealth; *Provided*, That in all such cases, bail shall be required as in actions of debt.

Proviso.

Fee to clerks for issuing licenses, and their duty under this act.

III. THE clerks of the respective courts, shall be entitled to receive fifty cents for each license to be granted in pursuance of this act. It shall be the duty of the clerks to transmit to the auditor of public accounts, once in every year, whether any and what number of licenses have been granted by his court under this act; and every clerk neglecting this duty, shall forfeit fifty dollars, to be recovered in the general court, by motion, on ten days previous notice.

Sheriffs commissions, &c.

IV. THE sheriff or serjeant for receiving the tax laid by this act on licenses, shall be entitled to the same commissions, and be subject to the same proceedings, for non-payment of the same into the treasury, as is prescribed for the recovery of the public revenue.

Construction of this act as to goods of the growth of the United States.

V. NOTHING in this act contained, shall be construed to prevent any person or persons from offering for sale, or barter, any goods or commodities, the growth or manufacture of this commonwealth, or of any of the United States; nor shall any thing herein contained, be construed so as to permit any person obtaining a license under this act, to authorize any negro or mulatto, bond or free, to vend any goods, wares, or merchandize, but in all such cases, the negro or mulatto offering any goods, wares, or merchandize, shall be proceeded against in like manner as is prescribed by this act, against persons offering goods, wares, or merchandize, for sale or barter, without license.

Penalty on negroes and mulattoes offering goods for sale.

Commencement of this act.

VI. THIS act shall commence and be in force from and after the eighth day of March next.

CHAP. CCXXXV.

An Act increasing the Salary of the Clerk of the General Court, and for other Purposes.

[Passed the 22d of December, 1797.]

I. **B**E it enacted by the General Assembly, That in lieu of the salary now allowed by law to the Clerk of the General court, he shall and may receive at and after the rate of five hundred dollars per annum, payable in like manner as the salary heretofore allowed him, has been paid.

Salary of the clerk to the general court.

II. *AND be it further enacted*, That the fifth section of the act of Assembly, passed in the year one thousand seven hundred and ninety-two, intituled, *An act reducing into one the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees and county levies*, shall be, and is hereby repealed.

Repealing clause.

III. *AND be it further enacted*, That where a motion shall be made or suit instituted against any person or persons for money due to the public, by, or in the name of the person authorized by law so to do, and judgment shall be recovered against him, her, or them, the clerk of the court wherein such motion shall be made or suit instituted, shall be, and is hereby authorized to charge to the commonwealth the fees accruing thereon for services rendered the public: *Provided however*, That the said fees shall not be demanded or exacted until the same shall be received of the person or persons against whom such judgment shall be obtained.

Fees for motions made, or suits instituted chargeable to the commonwealth.

Proviso.

IV. THIS act shall commence and be in force from and after the first day of January, one thousand seven hundred and ninety-eight.

Commencement of this act.

CHAP. CCXXXVI.

An act to amend the act, intituled, An act for the appointment of Harbour-Masters, and declaring their Duty.

[Passed the 18th of January, 1798.]

I. **B**E it enacted by the General Assembly, That the harbour masters appointed, or to be appointed under the act, intituled, "*An act for the appointment of harbour masters, and declaring their duty*," shall have and exercise full power and authority to regulate the anchoring of the river and bay crafts, that shall come within their respective jurisdictions.

Powers of harbour masters as to bay craft.

II. EVERY master or skipper of a river or bay craft, who shall refuse to obey the directions of the harbour master, shall forfeit and pay the sum of two dollars, to be recovered by the harbour master, by warrant before any justice of the peace, which fine shall be applied towards lessening the county or corporation levies, as the case may be.

Penalty on refractory skippers.

III. THE harbour master shall be entitled to receive from the master or skipper of each bay or river craft, that shall go within the county dock, or that shall anchor at, or be secured to the county wharf, twenty-five cents, to be recovered in like manner as is prescribed for his other fees.

Fees demandable for bay craft.

IV. THE harbour master shall likewise have power to remove from the county wharf, all flats, lighters, and boats, that may obstruct the passage of ferry boats. And if any owner or master of a flat, lighter, or boat, shall refuse to obey the orders of the harbour master in this respect, every such owner or master, if a free man, shall forfeit and pay one dollar, to be recovered by warrant before any justice of the peace, which fine shall be applied as before directed; and if a slave, he or she shall receive such corporal punishment, as the justice before whom he or she may be carried, shall award, not exceeding twenty lashes.

Power of harbour masters as to flats, &c. and penalty on owners thereof disobeying his directions.

V. *AND be it further enacted*, That instead of the fees heretofore allowed the harbour masters, they shall be entitled to receive from all masters or commanders of square rigged vessels, two dollars, and for all schooners and sloops, one dollar and twenty-five cents, and no more. *Provided nevertheless*, That no master or skipper of any bay or river craft, shall be subject to the payment of any fee by this act imposed, except those who shall go within any ferry dock, or shall anchor at, or make fast to the county wharfs.

Fees demandable for square rigged and other vessels.

Proviso.

VI. THIS act shall not be so construed as to authorize any harbour master to prevent any bay or river craft from going to, or anchoring at any private wharves.

Construction of this act in certain cases.

Repealing clause.

Commencement of this Act.

VII. ALL acts coming within the purview of this act, shall be, and are hereby repealed.

VIII. THIS act shall commence and be in force from and after the passing thereof.

CHAP. CCXXXVII.

An act authorising the Register of the Land Office to deliver original Plats and Certificates of Survey, in certain cases.

[Passed the 11th of January, 1798.]

Register authorised to redeliver original plats of survey for certain lands herein described.

Commencement of this act.

I. **B**E it enacted by the General Assembly, That the register of the land-office be, and he is hereby authorised and directed, to deliver to any person or persons, authorised to receive the same, the original plats and certificates of survey, returned to his office, for lands situated between the Scioto and Little Miami rivers, and for which, grants may have been issued, in consideration of military services.

II. THIS act shall commence and be in force from and after the passing thereof.

CHAP. CCXXXVIII.

An Act directing the Mode of appointing the Public Printer, prescribing his Duties, and for other Purposes therein mentioned.

[Passed the 22d of January, 1798.]

Public printer, how appointed.

Services to be performed by him.

Proviso.

Annual salary allowed him.

Vacancy in the office of public printer during the recess of the General Assembly, how supplied, &c.

Repealing clause.

Commencement of this act.

I. **B**E it enacted, That the Public Printer shall be appointed annually by joint ballot of both houses of Assembly. *Provided*, That the present Public Printer, Augustine Davis, shall continue in office until the next session of Assembly.

II. AND to prevent misunderstanding concerning the duties of the Public Printer, *Be it further enacted*, That he shall within thirty days after the rising of the assembly, publish all laws passed during the session; that he shall publish the journals of the house of delegates, regularly during such session; that he shall publish in his gazette or otherwise, as the same may be directed, all intelligence, notices of particular laws, proclamations and advertisements from the executive: Also all orders and advertisements directed to be published by the supreme courts, the treasurer, the auditor, attorney general, justices of the peace, and other public persons or bodies acting in their public capacity, and to supply the Executive, Treasury, Auditor, and Inspectors with blanks: But nothing herein expressed shall prevent the Public Printer from taking any fee which the law may have specially pointed out for any of the foregoing services.

III. AND whereas it has been represented to this present General Assembly, that the compensation heretofore allowed the Public Printer is inadequate to his services, it not being an indemnification for the labour, materials found, and other articles absolutely necessary to the carrying on the said business: *Be it therefore further enacted*, That the annual sum of two thousand seven hundred dollars be allowed the said Printer, as a compensation for his services, and that the auditor be directed to issue his warrant upon the treasurer, for the sum aforesaid.

IV. *AND be it further enacted*, That when a vacancy shall happen in the office of the said Printer, during the recess of the assembly, by his death, resignation, or removal, such vacancy shall be supplied by the Executive, to continue until the meeting of the legislature, who shall, as soon as convenient thereafter, proceed to the appointment of a Printer, in manner and form herein prescribed: And such person appointed by the Executive, shall be paid for his services, such proportion of the above sum as the Executive may deem equitable and just, under such appointment of the Executive.

V. ALL and every act or acts, and parts of acts, coming within the purview of this act, shall be, and are hereby repealed.

VI. THIS act shall commence and be in force from and after the passing thereof.

CHAP. CCXXXIX.

An Act vacating the Office of a Trustee in certain cases, and prescribing the Manner of supplying such Vacancy.

[Passed the 5th of January, 1798.]

I. **B**E it enacted by the General Assembly, That if any trustee or director of a town not incorporated, hath removed or shall remove his residence to a greater distance than that of five miles from the said town, such removal and residence shall be considered as a vacation of the office and appointment of such trustee or director; and the vacancy thereby occasioned, shall be supplied in the same manner as is provided in the case of other vacancies in the said trustees or directors.

Office of a trustee of a town now vacated; and such vacancy, how supplied.

II. AND where by death, resignation, or other cause, there are no trustees remaining of any town not incorporated, it shall be lawful for the sheriff of the county in which such town is, and he is hereby directed, on application of any five freeholders of the said town, for that purpose, to cause an election of trustees or directors, to be made in the manner prescribed by law for supplying vacancies in the said trustees or directors.

Mode of appointing trustees of towns where, by death, resignation, &c. there are none remaining.

III. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act.

CHAP. CCXL.

An Act to amend the Act, for Limitations of Actions, for preventing frivolous and vexatious Suits, concerning Jeoffails and certain proceedings in Civil cases.

[Passed the 25th of January, 1798.]

BE it enacted by the General Assembly, That the parol shall not demur in any suit now depending, or hereafter to be brought in any court of common law or equity, by reason of the infancy of the plaintiffs or defendants, or of any, or of either of them, but such court may nevertheless proceed to judgment or a final decree in the cause.

Parol shall not demur by non-age.

General Assembly, begun and held at the Capitol, in the City of Richmond, on Monday, the 3d day of December, in the Year of our Lord, 1798.

1798.

CHAP. CCXLI.

An Act, to amend an Act, intituled, "An Act, to amend and reduce into one Act, the several Acts of Assembly, for regulating the Militia of this Commonwealth."

[Passed the 23d of January, 1799.]

I. **B**E it enacted by the General Assembly, That it shall and may be lawful for the Executive of this Commonwealth, to consolidate and divide regiments of militia in the several counties of this state as circumstances may direct: That the counties of Monongalia, Ohio, Brooke, Harrison, Randolph, and Wood, shall constitute one brigade, and the counties of Hampshire, Hardy, and Pendleton, shall constitute one brigade; and that the counties of Wythe, Montgomery, and Monroe, shall constitute one brigade; any thing in this or any other act to the contrary, notwithstanding.

Executive may consolidate or divide regiments: additional brigades established.

II. AND be it further enacted, That the time and place for the regular musters of each company of militia shall be fixed by the first regimental court of inquiry, which is held next after the passing of this act, subject to such changes as future regimental courts of inquiry may think proper; and the notice of such musters heretofore required by law, are hereby declared to be unnecessary, after such time and place shall be fixed as aforesaid.

Regimental courts of inquiry, to fix time of petty musters; and notice thereof unnecessary.

III. ALL commissioned officers are hereby required to appear in full uniform when on duty.

Officers to appear in uniform.

IV. AND be it enacted, That the troops of cavalry, and companies of artillery, belonging to the several divisions, shall parade with the regiments of

Cavalry and artillery shall parade with and

be governed as other militia.

Volunteer cavalry to be raised.

Musicians to be provided and how compensated.

Training of officers to continue three days and senior officers present to command. *Proviso.*

Time of regimental musters.

Fines may be remitted, and mode of collecting them.

Sheriffs shall discharge orders on him, drawn by commandant; and liable to judgment on motion in case of failure.

Proviso.

Commandants shall render an account thereof to courts.

Provision in cases where fines have not been delivered in due time.

infantry from which they have been raised; and in cases where there are two regiments in a county, the brigadier general commanding the same shall direct with which of the said regiments the said troops or companies shall parade: And the said troops and companies shall be governed by the same rules and regulations, and subject to the like penalties, as are by law directed with respect to the rest of the militia.

V. *AND be it further enacted*, That there shall be raised out of each of the regiments of militia within this commonwealth, one troop of cavalry: *Provided*, such troop can be raised by voluntary enlistment: and no person who shall voluntarily enrol himself as a private in any troop of cavalry, light infantry company, company of riflemen, or corps of artillery, shall be compelled to continue or serve therein for a longer period than five years.

VI. *AND be it further enacted*, That the commanding officer of each regiment shall cause to be enlisted so many drummers and fifers as he shall deem necessary for his regiment, and shall direct in what manner they shall be instructed in the respective branches of music. The regimental courts of inquiry shall determine the allowances to be made to the persons employed to instruct them, and also to the drummers and fifers while convened for the purpose of receiving such instruction; which allowances shall be paid on the order of the commanding officer of the regiment, out of the fines collected under the act, intituled, "*An act to amend and reduce into one act, the several acts of Assembly for regulating the Militia of this Commonwealth.*"

VII. *AND be it enacted*, That in future the annual training of the commissioned officers shall continue for three days, and no longer: And if the brigade inspector does not attend, the commandant shall appoint some other officer to train them: *Provided always*, that the days appointed for training the commissioned officers as aforesaid, shall be in the same month with the regimental musters, and the senior officer present, shall be the commanding officer each day during the continuance thereof.

VIII. *AND whereas* by the sixteenth section of the said recited act, the regimental musters are restricted to the month of October, such musters may in future be directed by the officer commanding the brigade, either in the months of October or November in every year.

IX. *AND be it further enacted*, That all fines imposed on commissioned officers, by any regimental court of inquiry, for non-attendance or otherwise, may, for good cause shewn, be remitted by the succeeding regimental court of inquiry; and no fine imposed at any court of inquiry shall be put in the hands of a sheriff or collector, for collection, before a subsequent court of inquiry shall have intervened; and the sheriff or collector shall and is hereby directed to receive the lists of such fines, and collect and account for the same as heretofore directed.

X. *AND be it further enacted*, That the sheriff of each county shall on or before the first day of October in every year, pay and satisfy all draughts of the lieutenant colonel commandant in favour of the clerk of any court of inquiry, provost martial, or for any other purpose authorised by law; and on failure so to do, the court of the county whereof he is sheriff, shall be and is hereby empowered and required, on motion of the lieutenant colonel commandant, to render judgment against the said sheriff, his executors or administrators, for the amount of such draught, with the costs of the said motion; upon which judgment, execution shall issue, be endorsed, and proceeded on, in like manner as executions are directed by law in other cases against delinquent sheriffs: *Provided*, that where it shall so happen that the sheriff of any county shall be commanding officer of the regiment therein, the officer next in command shall proceed as herein particularly directed.

XI. THE commanding officer of every regiment shall, on or before the first day of December in every year, render to the county or corporation court an account of all the draughts made by him on the sheriff or collector, for such requisites as under this and the said recited act he is authorised to purchase or procure, specifying therein the particular articles for which such draughts were given: and the passing of such account by the court shall exonerate such officer from any claim by the commonwealth.

XII. *AND be it further enacted*, That where it shall have so happened that lists of fines have not in due time been delivered to a sheriff for collection, any succeeding sheriff shall and is hereby directed to receive such lists, and shall collect and account for the same, in like manner with other fines placed in his hands for collection.

XIII. *AND be it further enacted*, That so much of the law now in force as requires the officers of patrols to make monthly returns to the county courts, shall be and the same is hereby repealed: and the said officers shall in future make such returns quarter-yearly, or oftener, if required by the commanders of battalions.

Returns by officers of patrol, when to be made.

XIV. THE fifth section of the said recited act shall hereafter be so construed as not to restrict the several county and corporation courts, in their recommendations to the executive of officers to supply vacancies in the militia, to make such recommendations according to grade and seniority.

Construction of the act herein referred to.

XV. *AND be it enacted*, That so much of the said recited act as requires the commanding officers of each battalion, to appoint a court of inquiry after his battalion muster in the month of May, shall be and is hereby repealed.

Part of said act repealed.

XVI. SO much of any act or acts as exempts quakers and menonists from mustering in the militia, shall be and is hereby repealed.

Concerning Quakers & Menonists.

XVII. *AND be it enacted*, That the allowances which the courts martial shall hereafter make to persons employed to carry orders respecting the militia, shall be paid by the treasurer, by order of the executive, out of the fund arising from militia fines.

Compensation for carrying militia orders.

XVIII. ALL and every act, clauses and parts of acts, coming within the purview of this act, shall be and the same is hereby repealed.

Repealing clause

CHAP. CCXLII.

An Act to impose certain Taxes on Law Process, and for other purposes.

[Passed the 23d of January, 1799.]

I. **B**E it enacted by the General Assembly, That the following taxes shall be imposed, collected, and paid: On each writ or declaration in ejectment, instituting a suit in the district court, or subpoena in the high court of chancery, the sum of one dollar; on each appeal to the high court of chancery two dollars; on each writ of error, supersedeas, and habeas corpus *cum causa*, filing any record of appeal or appeals to a district court, or to the high court of chancery, and on each writ of *certiorari* issued from the general court, district court, or high court of chancery, one dollar; and on each writ, declaration in ejectment or subpoena, instituting any suit in a county or corporation court, the sum of fifty cents; the said taxes shall, by the respective clerks, be taxed in the bill of costs on each certificate under the seal of any county or corporation court, there shall be paid a tax of one dollar. No process, as aforesaid, shall be issued, or transcript of a record delivered, or declaration in ejectment received, until the said respective taxes are paid. There shall be paid forty-two cents for every transfer of a surveyor's certificate for land, to be collected by the register of the land-office before the issuing of the patent; for every attestation, protestation, and all other instruments of publication from a notary public, under his seal of office, fifty cents, to be collected and accounted for by the said notary public; and one dollar for each certificate under the seal of the commonwealth, to be collected by the clerk of the council, before the delivery of such certificate; which last mentioned taxes shall be accounted for and paid in like manner, and with the like commissions for collecting, as is directed in the case of other taxes imposed by this act.

Taxes on law process, &c. and how collected.

On surveyor's certificates, and on attestations, &c. by a notary public.

On certificates under seal of this state.

II. EACH clerk hereby required to receive the taxes above imposed, shall account for the same, on oath, to the auditor of public accounts, and pay the amount in his hands into the treasury, on or before the first day of October in each year, deducting thereout five *per centum* for receiving and paying the same. A commissioner of the tax shall compare the account of each clerk with the books in his office, and certify that it thence appears, that all taxes by him received are accounted for, nor shall any clerk be entitled to receive any money from the treasury, or to recover any fees of the sheriff by motion or otherwise, unless he shall have previously obtained a *quietus* for the said taxes according to this act.

Time, within which clerk shall make payment of his collections; compensation therefor; and penalty in case of default.

III. *AND be it further enacted*, That if any clerk shall fail to account for, and pay the taxes aforesaid, according to this act, he shall forfeit and pay, for the use of the commonwealth, for every year he shall fail to make such payment, the sum of six hundred dollars; to be recovered by the auditor, on

Further penalty on clerk's failing to make payment of the taxes by him collected.

Period within which motions may be made against delinquent clerks, prolonged.

Auditor to publish names of delinquent clerks.

motion in the general court, with costs, and moreover be liable to be displaced from office by the general court.

IV. *AND be it further enacted*, That the period for moving against the respective clerks, for arrearages of taxes heretofore received by them, shall be and the same is hereby extended until the first day of January in the year eighteen hundred; and if any clerk shall fail to pay such arrearages, no fees whatsoever shall be thereafter collected, levied, or distrained, for or on behalf of such clerk, until the said arrearages shall be accounted for and paid.

V. *AND be it further enacted*, That it shall be the duty of the auditor, immediately after the first day of October in each year, to publish in the public papers for two months successively, the names of all clerks, being defaulters under this act, together with extracts from this law, prohibiting the recovery of his fees in consequence of such delinquency.

CHAP. CCXLIII.

An Act laying Taxes for the Support of Government.

[Passed the 23d of January, 1799.]

Taxes on lands, slaves, horses and carriages.

On lots and houses, situated in towns.

Proviso.

Public property exempted from tax.

Licenses to merchants selling goods, wholesale or retail.

Penalty on dealing without such license first obtained.

Proviso.

I. *BE it enacted by the General Assembly*, That the public taxes, for the year one thousand seven hundred and ninety-eight, shall be as follows, to wit: on lands, for every hundred dollars value, agreeably to the equalizing law, forty-eight cents; for every slave above the age of twelve years, except such as have been, or shall be exempted by reason of age or infirmity, by the respective county or corporation courts, forty-four cents; for every stud horse and jack ass, twice the price at which such horse or ass covers a mare for the season; for all other horses, mules, mares, and colts, twelve cents each; for every ordinary license, twelve dollars and fifty cents; for every four wheel riding carriage, except phaetons and stage waggons, one dollar and twenty-five cents per wheel; for all phaetons and stage-waggons, eighty-four cents per wheel; for every other riding carriage with two wheels, forty-three cents per wheel, and for all lots and houses in towns, one dollar fifty-six cents, on every hundred dollars of the rent thereof, to be ascertained by the rent paid by the tenant, and where such house or lot is in the occupation of the proprietor, the yearly rent or value shall be ascertained by the commissioners of the revenue or either of them, by a comparison of its value with other houses or lots actually rented: *Provided*, That the owner or proprietor of any such house or lot, if he thinks himself aggrieved by such valuation, may appeal to the court by whom the commissioners were appointed, whose judgment as to the yearly rent or value shall be final. The said commissioners or either of them to ascertain the rent paid on houses or lots, actually leased, may call on the tenant or proprietor to declare on oath or solemn affirmation, what is the amount of the rent paid for the same; and every person so called on, and refusing to declare, shall forfeit and pay the sum of three hundred dollars, to be recovered by motion, on ten days previous notice, to be made by the commissioners of the revenue, or either of them: *Provided*, That no tax shall be collected on lands, lots, houses or other property belonging to this commonwealth, or to any county, town, college, houses for divine worship, or seminary of learning.

II. *AND be it further enacted*, That from and after the first day of May next, upon any person's producing to the commissioner of the revenue, for the county, district or corporation, a receipt for the sum of forty dollars paid to the sheriff or collector, such commissioner shall grant to such person a license to sell merchandize of foreign growth or manufacture, by wholesale and retail, for and during the term of twelve months; or if the said receipt shall be for fifteen dollars, such person shall in like manner receive a license to retail such goods for the same time. And if any person shall sell such merchandize, either by wholesale or retail, on land, or on board any vessel, without having obtained such license, such person shall forfeit and pay five hundred dollars, to be recovered by the commissioner in any court of record, on ten days previous notice, and to be paid to the sheriff, for the use of the commonwealth; of which licenses and fines, the commissioner shall annually in their books, return a list to the auditor of public accounts, on or before the fifteenth day of September, specifying names, which shall be good evidence, whereupon to charge the sheriff or collector: *Provided nevertheless*, that not above one tax shall be paid, on account of so selling at one and the same store, and provided also,

that nothing contained in this, or any other act, shall be so construed, as to impose a tax on planters or farmers, for selling salt to their neighbours, purchased as a return load for their produce, carried in their waggons or otherwise to market.

III. *AND be it further enacted*, That the act concerning hawkers and pedlers, shall be so construed, as to make it necessary for each hawker and pedler to obtain a license.

Concerning hawkers and pedlers.

IV. FOR every license granted by a commissioner under this act, he shall be entitled to twenty-five cents, which shall be paid to him out of the public treasury, on warrant of the auditor of public accounts, after his list of licenses shall be returned to the auditor as aforesaid.

Allowance to commissioner for issuing such license, and how paid.

V. CLERKS of courts shall annually return to the auditor, on or before the fifteenth day of September, a list of all hawkers and pedlers' licenses, granted by their respective courts, and every clerk neglecting this duty, shall forfeit fifty dollars, to be recovered in the general court, by motion, on ten days previous notice.

Clerks of courts to return a list of pedlers' licenses to the auditor.

VI. *AND* for the more effectual collection of the said taxes, and others which may become due to the Commonwealth, *Be it further enacted*, that no notice shall hereafter be necessary to any sheriff, collector, clerk, or inspector, for the purpose of recovering a judgment for any taxes, fine or public dues of any kind, but that the same may be recovered by the auditor, on motion without notice, provided such motion be made within twelve months after such taxes, fine or public dues shall become payable, or shall be incurred.

Notices on motions against sheriffs, and other officers herein mentioned, unnecessary.

VII. NO sheriff or other collector shall at any time, be allowed to return any list of insolvents, or have any credit therefor, after twelve months shall have expired, from the period of the taxes becoming payable, by such sheriff or collector, to which such list relates.

List of insolvents, by sheriffs, to be returned within twelve months.

VIII. A COMMISSION of five per cent. and no more, shall be allowed to sheriffs and collectors for the collection of the taxes on licenses to be granted to merchants under this act, and on licenses to be granted to hawkers and pedlers, under an act, intituled "an act concerning hawkers and pedlers," any law to the contrary notwithstanding.

Commission allowed for collecting tax on licenses.

IX. A LIST of all licenses granted to merchants, shall be returned by the commissioner granting the same, to the county or corporation courts, for their examination; after which the said list shall be delivered to the sheriffs or collectors, who shall annually on or before the first day of October next, after the receipt thereof, account for and pay the same into the public treasury.

Commissioner to return list of licenses to county or corporation courts, for their examination.

X. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CCXLIV.

An Act, to amend the Act, intituled "An Act, to reduce into one the several Acts concerning Slaves, Free Negroes and Mulattoes."

[Passed the 25th of January, 1799.]

I. **B**E it enacted by the General Assembly, That if any person or persons shall hereafter be guilty of stealing any negro, or mulatto slave whatsoever, and shall thereof be lawfully convicted, such person or persons so convicted, shall suffer death without benefit of clergy: whether the said slave or slaves so stolen shall have been taken out of, or from the actual or immediate possession of the owner or overseer of such slave or slaves, or shall have been elsewhere found: *Provided nevertheless*, That so soon as the governor, by advice of council, shall issue his proclamation, declaring the penitentiary house to be in a situation fit to receive criminals, agreeably to the act, intituled "An Act to amend the Penal Laws of this Commonwealth:" any person or persons guilty of the offence above mentioned, shall undergo a confinement in the said penitentiary house, for a period not less than three, nor more than eight years, under the conditions, and agreeably to the directions in the said act contained.

Punishment for stealing any negro or mulatto slave.

Proviso.

II. ALL and every act, clause or part of an act, coming within the purview of this act, shall be, and are hereby repealed.

Repealing clause

III. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CCXLV.

An Act prescribing the Duty of the Commissioners of the Public Revenue, in certain Cases relative to Lands.

[Passed the 25th of January, 1799.]

Proceedings by commissioners of the revenue, in cases where lands lying in one county, have been taxed in another.

I. **B**E it enacted by the General Assembly, That where commissioners of the public revenue, in acting under the several laws prescribing the mode of ascertaining the taxable property within this commonwealth, shall tax lands as lying in one county, which lie in another, it shall be the duty of the commissioners of the counties wherein such lands so improperly taxed, actually lie, and they are hereby required, on information of the fact, to certify the same, and the quality of such lands to the commissioners, who committed the errors in such taxation, and thereupon the said lands shall be transferred from the books of the said commissioners, wherein they were taxed as aforesaid, to the books of the commissioners of the counties wherein such lands really lie.

Assessment of lands in Greenbrier, &c. when completed, shall by the commissioners be delivered to the sheriffs. Commencement of this act.

II. *AND* be it further enacted, That the commissioners appointed under the act, for assessing the lands in the counties of Greenbrier, Kanawha and Randolph, shall after completing the assessment therein required, deliver a copy of the said assessment to the sheriffs of each of the said counties, who shall receive the same, and be directed thereby in making his collections.

III. THIS act shall commence and be in force from the passing thereof.

CHAP. CCXLVI.

An Act, to repeal certain Acts, and to declare the construction of the Bill of Rights, and Constitution concerning Religion.

[Passed the 24th of January, 1799.]

Preamble.

WHEREAS the constitution of the state of Virginia, hath pronounced the government of the King of England, to have been totally dissolved by the revolution: hath substituted in place of the civil government so dissolved, a new civil government; and hath in the bill of rights, excepted from the powers given to the substituted government, the power of reviving any species of ecclesiastical or church government, in lieu of that so dissolved, by referring the subject of religion to conscience: And whereas the several acts presently recited, do admit the church established under the regal government, to have continued so, subsequently to the constitution; have bestowed property upon that church; have asserted a legislative right to establish any religious sect; and have incorporated religious sects, all of which is inconsistent with the principles of the constitution, and of religious freedom, and manifestly tends to the re-establishment of a national church: For prevention whereof,

Certain acts herein mentioned repealed.

Be it enacted, That the several laws, the titles whereof are as follow: "An act, for exempting the different societies of dissenters, from contributing to the support and maintenance of the church as by law established, and its ministers, and for other purposes therein mentioned"—"An act, to repeal so much of the act, for the support of the clergy, and for the regular collecting and paying the parish levies, as relates to the payment of the salaries heretofore given to the clergy of the church of England"—"An act, for incorporating the Protestant Episcopal church"—"An act, to authorize the election of certain vestries"—"An act, to repeal the act, for incorporating the Protestant Episcopal church, and for other purposes"—and "An act, for giving certain powers to the trustees of the property of the Protestant Episcopal church," be and the same are hereby repealed, and declared to be void and of none effect. And it is further declared, that the law, intituled "An act, for establishing religious freedom," is a true exposition of the principles of the bill of rights and constitution.

CHAP. CCXLVII.

An Act, to amend the Act, intituled "An Act concerning the election of Members of the General Assembly,"

[Passed the 19th of January, 1799.]

The taking of depositions in cases of con-

I. **B**E it enacted by the General Assembly, That whensoever hereafter the election of any person returned to serve as a Senator or Delegate, is intend-

ed to be contested, the petitioner and the returned member, shall respectively begin to take their depositions, within two months after such election, and shall finish taking the same at least thirty days preceding the commencement of the ensuing session of assembly. If either party shall fail to begin and finish taking his depositions, within the times above prescribed and limited, he shall be deprived of all benefit of such depositions when taken.

II. NOTHING herein contained shall be construed to contravene or repeal in any manner, the regulations concerning contested elections, prescribed by the act, intituled, "An act concerning the election of members of general assembly."

III. AND any person hereafter, who shall be a candidate for any county, or senatorial district, to serve if elected, in the general assembly, who shall directly or indirectly give or agree to give, any elector or pretended elector, money, meat, drink or other reward, in order to be elected, or who shall treat directly or indirectly, being a candidate for such, or any other county, city, borough or district, upon due proof thereof to either house, shall be expelled and disabled to be re-elected during the term of three years; any thing in the above recited act, or in any other act to the contrary notwithstanding: *Provided nevertheless*, that nothing herein contained, shall be so construed as to prevent any candidate from his usual intercourse of friendship with his neighbours, at his own house.

contested elections, when to commence and be completed.

Saving clause.

Candidates to either House of Assembly, who shall give meat, money, drink, or other reward, in order to be elected, liable to be expelled.

Proviso.

CHAP. CCXLVIII.

An Act, to preserve the Freedom of Speech, and Proceedings in the Legislature.

[Passed the 28th of December, 1798.]

WHEREAS freedom of speech and proceedings, appertaineth of right, to the General Assembly, and the preservation thereof is necessary to secure the liberty of the people:

Preamble.

I. *BE it enacted*, That if any person shall arrest or prosecute, or be aiding or abetting in arresting or prosecuting, a member or members of the Senate, or House of Delegates, for, or on account of any words spoken or written, any proposition made, or proceedings had in the said Senate, or House of Delegates, every such person so offending, shall be deemed guilty of a misdemeanor, and shall be apprehended, committed, and tried therefor, as in other cases of misdemeanors, before the general court, or a district court of this commonwealth, and being thereof convicted by the verdict of a jury, shall be adjudged to suffer imprisonment for a term not exceeding one year, and shall pay a fine, not exceeding two thousand dollars; which imprisonment and fine shall be assessed by a jury.

Any person arresting or prosecuting a member of the senate or house of delegates, for ought said or done in his representative capacity, or aiding therein, triable as in cases of misdemeanor, and liable to fine and imprisonment.

II. *AND be it further enacted*, That if any member or members of the said Senate, or House of Delegates, shall be arrested or imprisoned, for, or on account of any words, spoken or written, or for any proposition made, or proceedings had in the said Senate or House of Delegates, such member or members may apply to the general court, or a district court, or any judge thereof, in vacation, for a writ of Habeas Corpus, who are hereby empowered and required to issue the same, returnable before the said court, or said judge, or any other judge, and upon the return thereof, to liberate and discharge such member or members.

Any such member, in case of being arrested or imprisoned, may apply for, and obtain his writ of habeas corpus.

III. *AND be it further enacted*, That the provisions of this act shall be extended to the arresting, and prosecuting any person or persons, for words spoken or written, or for any propositions made, or proceedings had in the said Senate or House of Delegates, and to the discharging and liberating any person or persons, by habeas corpus, as aforesaid, although such person or persons, shall by disqualification, or from any other causes, have ceased to be a member of the said Senate, or House of Delegates, at the time of such arrest or prosecution, or of the trial, judgment or imprisonment, in consequence thereof: *Provided*, That nothing herein contained, shall in any respect extend to the power which either house of the general assembly, now hath, or may exercise over their respective members.

Provisions of this act extended, to the arresting and prosecuting any person or persons, although such person shall have ceased to be a member of the senate or house of delegates.

Proviso.

IV. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CCXLIX.

An Act to amend the act, for reducing into one, the several "acts concerning Executions, and for relief of Insolvent Debtors."

[Passed the 24th of January, 1799.]

Executions issued from district courts, when returnable.

Proviso.

Where executions are not returned, clerk may issue a new writ.

Forms of executions returnable in vacation may by clerks be adapted to the nature of the case: and penalty on officers failing to make due return thereof.

Penalties imposed on officers returning writs of fieri facias, venditioni exponas, or capias ad satisfaciendum, returnable in vacation, satisfied, and failing to pay the amount to the party entitled on demand, or suffering an escape.

Officers liable to like penalty on failing to return forthcoming bonds.

Clerk of court of appeals to certify the judgments of said court on appeals from district courts, to the district court clerks, and execution may thereupon issue.

I. **B**E it enacted by the General Assembly, That executions hereafter issued from a district court, may at the election of the party suing out the same, be returnable on the first day of the next court of such district, or to the clerk's office on the first day of any month previous thereto, unless that shall happen on a Sunday, in that case the same shall be returnable on the next day: *Provided however*, that there be at least thirty days between the teste and return of such executions.

II. IF any execution returnable in vacation of the courts, shall not be returned accordingly, or being returned, shall not be satisfied, the clerk may issue a new execution returnable as aforesaid, in like manner as is now provided in the case of executions, returnable to the court.

III. UNTIL the court of appeals shall direct the forms of executions, returnable in vacation of the court, the same shall be adapted by the clerks to the nature of the case. And where any such execution returnable in vacation of the court, shall come into the possession of any sheriff, coroner or serjeant of a corporation, and he shall fail to return the same to the office from whence it was issued, on or before the return day thereof, it shall be lawful for the court, ten days previous notice being given on the motion of the party injured, to fine such sheriff, coroner or serjeant, or the executors, administrators or securities of such sheriff, coroner or serjeant, at the discretion of such court, in any sum not exceeding five dollars per month, for every hundred dollars contained in the judgment, on which the execution so detained by such sheriff or other officer was issued, and so in proportion for any greater or lesser sum counting the aforesaid months from the return day of the execution, to the day of rendering judgment for the said fine.

IV. IF upon any writ of fieri facias, or Venditioni Exponas, returnable in vacation as aforesaid, any sheriff, under sheriff, or other officer, shall make return that he hath levied the debt, damages or costs, as in such writ is required, or any part thereof, and shall not immediately on demand, pay the same to the party to whom the same is payable, or his attorney, or any other person authorized to receive the same, or shall return upon any writ of Capias ad Satisfaciendum, that he hath taken the body or bodies, of the defendant or defendants, and hath the same ready to satisfy the money or tobacco in such writ mentioned, and shall have actually received such money or tobacco of the defendant or defendants, or hath suffered him, her or them, to escape with the consent of such sheriff, under sheriff or other officer, and shall not immediately on demand, pay such money or tobacco, to the party to whom the same is payable, or his attorney, then or in either of the said cases, it shall and may be lawful for the creditor, at whose suit such execution shall issue, to proceed against such sheriff, officer or under sheriff, or securities of such under sheriff, in the same manner as if such execution had been made returnable on the first day of the said court, and such court is hereby authorized to give judgment accordingly, and to award execution thereon.

V. IF any sheriff or other officer, shall fail to return to the clerks office, with the execution (unless he be otherwise directed by the creditor or creditors) any bond taken under such execution, for the forthcoming of property, such sheriff or other officer, his executors or administrators, shall be liable to the same fine and penalty for every month of such failure, to be recovered in the same manner, by the party injured, as is herein directed against a sheriff failing to return an execution.

VI. THE clerk of the court of appeals, shall immediately after the expiration of each term of such court, certify to the clerks of the respective district courts from whence appeals were transmitted, copies of the judgments and decision given thereon, which if received by the clerk of a district court in vacation of such court, shall be entered by him of record at the end of the proceedings of the preceding term of that court; and thereupon the said clerk shall upon application, issue executions thereon, if by the decision of the court of appeals, it be proper so to do; and in all other respects shall proceed according to the directions of such judgments and decisions, in the same manner as if they

had been entered during the session of the district court. And when by such judgments and decisions, damages are given for retarding the execution, the said clerk shall calculate the same until the time the copies of the said judgments or decisions were delivered to them. When such copies shall be received by the clerk of a district court during the session thereof, the same proceedings shall be had thereon, as have heretofore been had in such cases.

Damages allowed on such judgments, how calculated.

VII. THE plaintiff or plaintiffs in a judgment on any such forthcoming bond shall, and may recover against the defendant or defendants, in order to defray the expense incurred in giving a notice on such bond, the sum of fifty cents for each obligor to whom such notice shall be given to be taxed and levied as other costs are on the said judgment.

Plaintiffs allowed fifty cents for each notice on a forthcoming bond.

VIII. ALL the personal estate which shall be contained in the schedule of an insolvent debtor, shall by such debtor be transferred and delivered, and all the real estate conveyed to the sheriff, under the directions of the court or persons before whom the oath of insolvency shall be taken, before such insolvent debtor shall be discharged, to be by such sheriff disposed of according to law.

Estate of an insolvent contained in schedule to be transferred or conveyed to sheriffs, prior to his discharge.

IX. THE clerks of district courts instead of the fees now allowed by law, for issuing executions on the following judgments, and taxing the damages and costs thereon shall be allowed in such cases the fees hereafter mentioned to be taxed in the bill of costs as in other cases.

Fees of district court clerks in certain cases.

Dols. Cts.

Upon the affirmance by a district court of a judgment of a county or corporation court where no appeal is granted to the court of appeals,

1 20

Upon the affirmance in the court of appeals of a judgment in a suit or on a motion which originated in a district court,

1 20

Upon a like affirmance of a judgment in a suit or on a motion which originated in a county or corporation court,

2 40

And for taxing the damages and costs on the said judgments if no execution be issued thereon, half the fees above mentioned shall be allowed.

X. ALL acts and parts of acts coming within the purview of this act, shall be and the same are hereby repealed.

Repealing clause.

XI. THIS act shall commence and be in force, from and after the fifteenth day of June next.

Commencement of this act.

CHAP. CCL.

An Act concerning Elections.

[Passed the 2d of January, 1799.]

I. **B**E it enacted by the General Assembly, That the second section of the act, passed at the last session, intituled, "An act to amend the act concerning the election of members of the General Assembly," whereby it is enacted, that after the first day of January, one thousand seven hundred and ninety-nine, the election of members of the general assembly, shall be held on the third Monday in March, in every year, shall be, and is hereby repealed.

Part of act herein mentioned repealed.

II. **AND** be it further enacted, That in future such elections, and those also of Representatives to Congress, shall be held on the fourth Wednesday in April, in every year; any law to the contrary notwithstanding.

State and congressional elections when holden.

III. SO much of the "Act intituled an act for arranging the counties of this commonwealth, into districts, to choose Representatives to Congress," as comes within the purview of this act, shall be, and the same is hereby repealed.

Repealing clause.

IV. **AND** be it further enacted, That so much of the eighth section of the act, passed on the twentieth day of December, one thousand seven hundred and eighty-five, intituled an act concerning elections of Members of General Assembly, as directs the returning officers of the senatorial districts to make their returns within twenty days, after the last day of election, shall be, and the same is hereby repealed.

Additional repealing clause.

V. **AND** be it further enacted, That the sheriff of each county, within the senatorial districts of this commonwealth, shall meet within five days after the election, in each district, at the court-house of the county, first named therein, and from the poll so taken in their respective counties, return as a Senator, the

Time within which, and place where sheriffs shall meet in a senatorial district after

the election of a senator.

man who shall have the greatest number of votes in the whole district: *Provided nevertheless*, if from high waters, or other unavoidable accident, any sheriff or sheriffs, may be prevented from attending at the times and places aforesaid, the other sheriffs shall adjourn from day to day, until the business be completed.

Commencement of this Act.

VI. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCLI.

An Act to amend an act, intituled, an act to disable certain Officers under the Continental Government, from holding Offices under the authority of this Commonwealth.

[Passed the 9th of January, 1799.]

Persons holding an office, place, commission or appointment under the U. States, disqualified from holding any such under this state.

Proviso.

Any person nominated to office by the general government, and not declining its acceptance, liable to like exclusions.

Repealing clause.

Exception in favor of militia officers and soldiers.

Commencement of this act.

I. **B**E it enacted and declared by the General Assembly, That no person holding, or accepting any office or place, or any commission or appointment whatsoever, civil or military, under the authority of the United States, whether any pay or emolument be attached to such office, place, commission or appointment, or otherwise, or accepting or receiving any emolument whatsoever, from the United States, shall be capable of being elected to, or of holding any office, legislative, executive, or judicial, or any other office, place, or appointment of trust, or profit, under the government of this commonwealth: *Provided*, That nothing herein contained, shall be so construed as to prevent members of Congress from sitting as county court magistrates, or from holding offices in the militia, or so as to exclude any person receiving a pension from the United States, in consequence of any wound received in war, from any office under this commonwealth, on account of such pension.

II. *AND be it further enacted*, That any person nominated to any office, place, or appointment, under the General Government, who shall not signify his intention to decline the acceptance thereof, previous to acting under any appointment under this commonwealth, shall be equally liable to the exclusions of this act, as if he had actually accepted the same.

III. ALL acts and parts of acts, coming within the purview of this act, shall be, and are hereby repealed.

IV. NOTHING herein contained shall so operate as to create any exclusion whatsoever upon militia officers or soldiers, on account of the recompence they may receive from the United States, when called out into actual duty.

V. THIS act shall commence and be in force, from and after the first day of July next.

CHAP. CCLII.

An Act concerning certain Suits, prosecuted on behalf of the Commonwealth,

[Passed the 15th of January, 1799.]

Suits instituted on behalf of the state, by certain officers, shall not abate by their death or removal from office.

Commencement of this act.

I. **B**E it enacted by the General Assembly, That no suit now depending, or which may hereafter be prosecuted on behalf of the Commonwealth, in the name of the governor or treasurer thereof, for the time being, shall abate by the death, resignation or removal from office of the said governor or treasurer, but in such case the same proceedings shall continue to be had, and the same judgment shall be entered in the said suits, as if the said governor or treasurer were still living or in office.

II. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCLIII.

An Act, authorizing certain proceedings, on the Writ of Mandamus.

[Passed the 22d of January, 1799.]

Preamble.

WHEREAS great difficulty and delay attends the present method of proceeding on writs of Mandamus, and it is proper that the same should be amended by authorizing certain other proceedings thereupon:

Proceedings which

BE it enacted by the General Assembly of Virginia, That as often as a writ of

Mandamus, shall issue out of a court having competent jurisdiction within this commonwealth, and a return shall be made thereunto, it shall and may be lawful to, and for the person or persons, suing or prosecuting such writ of Mandamus, to plead to, or traverse all or any of the material facts contained within the said return, to which the person or persons making such return, shall reply, take issue, or demur; and such further proceedings, and in such manner, shall be had therein for the determination thereof, as might have been had, if the person or persons suing such writ, had brought his or their action on the case for a false return, and if any issue shall be joined on such proceedings, the person or persons suing such writ, shall and may try the same in such place as an issue joined in such action on the case should or might have been tried: and in case a verdict shall be found for the person or persons suing such writ, or judgment given for him or them on demurrer, or by nil dicit, or for want of a replication or other pleading, he or they shall recover his or their damages and costs in such manner as he or they might have done in such action on the case as aforesaid; such costs and damages to be levied by Capias ad Satisfaciendum, fieri facias, or elegit, and a peremptory writ of Mandamus shall be granted without delay, for him or them for whom such judgment shall be given, as might have been, if such return had been adjudged insufficient, and in case judgment shall be given for the person or persons, making such return to such writ, he or they shall recover his or their costs of suit, to be levied in manner aforesaid.

may be had on a writ of Mandamus, returned; damages allowed either party in case of a judgment in their favor; and a peremptory Mandamus may issue as if the return thereon, had been adjudged insufficient.

Such damages, how levied.

General Assembly, begun and held at the Capitol, in the City of Richmond, on Monday, the 2d Day of December, in the Year of our Lord, 1799.

1799.

CHAP. CCLIV.

An Act to amend an act, intituled, an act for appointing Electors to choose a President and Vice-President of the United States.

[Passed the 20th of January, 1800.]

WHEREAS, until some uniform mode for choosing a President and Vice-President of the United States, shall be prescribed by an amendment to the Constitution, it may happen under the law of this Commonwealth, for appointing Electors for that purpose, that a choice may take place contrary to the will of a majority of the United States, and also contrary to the will of a majority of the people of this State, which would be inconsistent with the true intent and meaning of the Constitution of the United States; and although this Commonwealth is willing to accede to any reasonable and proper amendment of the said Constitution to remedy the said evil, yet forasmuch as it ought in the mean time to be counteracted by every Constitutional regulation within the power of the Legislature, until it shall be so removed:

Preamble.

I. *BE it enacted by the General Assembly, That the persons qualified to vote for Electors of a President and Vice-President of the United States, under the act, intituled, "An act for appointing Electors to choose a President and Vice-President of the United States," shall each vote hereafter for twenty-one Electors, in manner herein directed. The Governor, with the advice of Council, shall on or before the first day of August, in every year wherein such election is to take place, appoint and commission three persons, in each county of this State, for the purpose of executing this law, any two or more of whom shall be competent to act. Each person before he enters upon the duties herein enjoined, shall take and subscribe the following oath: "I, A B, do solemnly swear, faithfully and truly to execute the office of a Commissioner under the act, intituled, "An act to amend an act, intituled, an act for appointing Electors to choose a President and Vice-President of the United States," that I will, to the best of my skill and judgment, admit all persons to vote entitled to do so, and reject all who are not so entitled, and that I will make a fair return of the persons voted for as Electors, within my county, and of the number of votes given for each, according to this act. So help me God."* Which affidavit the magistrate administering the oath, shall return attested, to

Mode of election by commissioners.

the clerk of the county court, to be by him filed; and the said magistrate shall also give to such Commissioner a certificate that he had taken the oath prescribed by this act. It shall be the duty of the said Commissioners, to attend at the several places for holding the said elections, directed by law, and then and there to hold the same, in manner following. They shall receive of each person whom they shall adjudge to be entitled to a vote, a paper containing the names of twenty-one persons for whom such individual shall vote as Electors, on the back of which paper, shall also be written the name of the person voting, and as the votes are rendered, it shall be the duty of the said Commissioners, to take an exact poll of the names of all voters. It shall be the duty of the clerk of each county, to attend at the said election for the Electors of a President and Vice-President of the United States, with the list of the lands as taxed therein; to be used by the said Commissioners as evidence towards ascertaining the right of any person to a vote. If it shall appear to the said Commissioners, that the persons entitled to vote were prevented from attending by bad weather, or from any other cause, they are hereby empowered and required to keep the poll open for a term not exceeding two days. So soon as the poll is closed, the said Commissioners shall subscribe each sheet upon which the same containing the names of all the voters shall be taken, and also obtain the subscription of two or more credible persons thereto, which poll thus subscribed, it shall be their duty to file in the clerk's office of the said county or corporation, within ten days of the time of holding the election, there to be recorded according to law. The said Commissioners shall, within two days after the poll shall be closed, ascertain the number of votes given for every person, who shall be so voted for as an Elector: *Provided*, That until the return shall be signed by the Commissioners holding the elections, the tickets so delivered in, shall be kept by one of the said Commissioners, under the seal and supercription of more than one, and shall never be opened or examined by less than two of the said Commissioners. Every voter shall vote for one person residing in each electoral district, and in case any ticket shall contain two or more names of persons residing in the same district, the first of such names only shall be considered as duly voted for; and in like manner, if two or more persons shall be of the twenty-one first upon the poll, who shall reside in the same district, he who shall have the greatest number of votes shall only be duly elected. The said Commissioners shall, within three days after closing the poll as aforesaid, make out three copies of a return in the following form: "We, A B, &c. Commissioners for holding the election of Electors for a President and Vice-President of the United States, for the county, city, or borough (as the case may be) of
 "do hereby certify, that an election was held on the first Monday of November
 "for the said county, city, or borough, (as the case may be) pursuant to law,
 "and that the number of votes herein specified, opposite to the names of the
 "several persons following, was given for such persons as Electors for the State
 "of Virginia, of a President and Vice-President of the United States, namely,
 "(here such list of persons and votes is to follow). Given under our hands
 "and seals, this day of one thousand eight hundred
 " . Which returns, written in words and not in figures, shall be sealed and subscribed by the Commissioners holding the election. One of the said returns shall be delivered to some person among the twenty-one who shall have therein the greatest number of votes, another shall be filed in the clerk's office of the county or corporation electing, and the third shall be transmitted to the Governor and Council, all of which shall be done within fifteen days after the same shall be made out; and the Governor and Council shall proceed to ascertain from the said returns, the twenty-one persons having the greatest number of votes throughout this State, and to advertise their names in such gazettes as they may think proper.

II. IF on account of death, sickness, or other cause, only one of the said Commissioners shall attend at the time and place for holding the said election, he is hereby empowered to associate with himself as a Commissioner, the High Sheriff, or any Magistrate of the county or corporation electing, who being qualified as before directed, shall be as competent to act as if he had been appointed by the Governor, with the advice of Council. It shall be the duty of the Sheriff of every county, and of the Serjeant of every corporation, entitled to elect, to attend the said Commissioners during the said election, and to remove force, should any be offered. And if any Sheriff shall fail in his duty as aforesaid, or if any Commissioner shall refuse to take the poll, being required so to

Provision in case of
 commissioner dead,
 &c.

do, by a candidate or person qualified to vote, or shall take it contrary to this act, or shall make or sign a false return, or shall falsify the poll or tickets, by erasure or alteration, he or they so offending, shall for every such offence, forfeit and pay the sum of three hundred dollars, to be recovered with costs in an action of debt, before any court of record, by any person who will sue for the same. After the said return shall be made, it shall be the duty of the said Commissioners to seal up all the tickets or votes by them received in manner herein directed, and endorse their names upon the cover as aforesaid, which shall be preserved by one of the said Commissioners, and shall, if demanded under an order from the Governor, with the advice of Council, within six months of the said election, be forthwith delivered under the penalty before prescribed, in other cases of misconduct; but if the said tickets or votes shall not be so demanded within six months, the Commissioner holding the same shall no longer be considered as answerable for them. The Governor, with the advice of the Council, is hereby empowered to defray by order on the Treasury, all reasonable expenses which may attend the execution of this act, and also the expense which may be incurred in transmitting the said returns to the Executive wherever it shall appear that it was necessary to employ a special messenger for that purpose.

III. *AND be it further enacted*, That the twenty-one persons having the greatest number of votes under this act, shall be the Electors of a President and Vice-President of the United States, for and on behalf of this state: *Provided*, they attend for that purpose at the time and place directed by law. But if it shall happen from death, sickness, or any other cause, or by reason of two or more persons having an equal number of votes, so that neither appears to be elected, that twenty-one Electors do not attend on the day and at the place appointed before the hour of ten, qualified to vote for a President and Vice-President of the United States, on behalf of this State, it shall be lawful for the Senate and House of Delegates of this Commonwealth, and they are hereby empowered and required to appoint forthwith by joint ballot, any person or persons necessary to fill up any such vacancy or vacancies, until the number of twenty-one Electors, for the purpose aforesaid is completed, which Elector or Electors so appointed, shall be entitled to vote for a President and Vice-President of the United States, in the same manner as if he or they had been chosen in manner herein before prescribed.

Mode of deciding the election.

IV. SO much of the first recited act or of any other act, as comes within the purview of this act, shall be, and the same is hereby repealed.

Repealing clause,

V. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCLV.

An Act laying Taxes for the Support of Government.

[Passed the 23d of January, 1800.]

I. **B**E it enacted by the General Assembly, That the public taxes for the year one thousand seven hundred and ninety-nine, shall be as follows, to wit:—On lands for every hundred dollars value, agreeably to the equalizing law, forty-eight cents; for every slave above the age of twelve years, except such as have been or shall be exempted, by reason of age or infirmity, by the respective county or corporation courts, forty-four cents; for every stud-horse and jack-ass, twice the price at which such horse or ass covers a mare for the season; for all other horses, mules, mares and colts, twelve cents each; for every ordinary license, twelve dollars and fifty cents; for every four wheel riding carriage, except phaetons and stage waggons, one dollar and twenty-five cents per wheel; for all phaetons and stage waggons, eighty-four cents per wheel; for every other riding carriage with two wheels, forty-three cents per wheel; and for all lots and houses in towns, one dollar and fifty-six cents on every hundred dollars of the rent thereof, to be ascertained by the rent paid by the tenant, and where such house or lot is in the occupation of the proprietor, the yearly rent or value shall be ascertained by the commissioners of the revenue or either of them, by a comparison of its value with other houses or lots actually rented: *Provided*, That the owner or proprietor of any such house or lot, if he thinks himself aggrieved by such valuation, may appeal to the court,

Taxes on land, slaves, &c.

Proviso

Public property exempted from tax.

by whom the commissioners were appointed, whose judgment as to the yearly rent or value shall be final. The said commissioners or either of them to ascertain the rent paid on houses or lots actually leased, may call on the tenant or proprietor to declare on oath or solemn affirmation, what is the amount of the rent paid for the same; and every person so called on and refusing to declare, shall forfeit and pay the sum of three hundred dollars, to be recovered by motion on ten days previous notice, to be made by the commissioners of the revenue, or either of them. *Provided*, That no tax shall be collected on lands, lots, houses, or other property belonging to this Commonwealth, or to any county, town, college, houses for divine worship, or seminary of learning. Every covering horse or jack-ass which shall not be duly entered with the commissioners of the tax, and all such horses and asses brought into this Commonwealth, subsequent to the ninth of March next, shall be liable to a treble tax, to be paid by the owner of the place at which he shall stand, upon whom it shall be distrainable by the sheriff, as if it had been entered in the commissioner's book; for two thirds whereof the sheriff shall be accountable to the public, and in case of failure to pay the same, shall forfeit two hundred dollars, to be recovered with costs, on motion after ten days notice by the Auditor, for the use of the Commonwealth: *Provided*, That any person so bringing such horse or ass into the state, entering him with the commissioner within ten days thereafter, and paying the tax to which he would have been liable, had he been duly entered, to the sheriff or collector, shall be absolved from the said penalty, and the said commissioners shall subjoin the said horse or ass to the list of taxables.

Licenses to merchants selling goods, wholesale or retail.

Penalty on dealing without such license first obtained.

Proviso.

Concerning hawkers and pedlars.

Licenses granted to hawkers and pedlars to be recorded.

Allowance to commissioner for issuing such license.

II. *AND be it further enacted*, That upon any person's producing to the commissioner of the revenue for the county, district, or corporation, a receipt for the sum of forty dollars paid to the sheriff or collector, such commissioner shall grant to such person a license to sell merchandize of foreign growth or manufacture, by wholesale and retail, for and during the term of twelve months; or if the said receipt shall be for fifteen dollars, such person shall, in like manner, receive a license to retail such goods for the same time. And if any person shall sell such merchandize either by wholesale or retail, on land or on board any vessel, without having obtained such license, such person shall forfeit and pay five hundred dollars, to be recovered by the commissioner in any court of record, on ten days previous notice, and to be paid to the sheriff for the use of the Commonwealth; of which licenses and fines the commissioners shall annually in their books, return a list to the Auditor of the public accounts, on or before the fifteenth day of September, specifying names, which shall be good evidence whereupon to charge the sheriff or collector. *Provided nevertheless*, That not above one tax shall be paid on account of so selling at one and the same store, and if any person shall possess two or more stores, he or she shall pay one tax for each store. *And provided also*, That nothing contained in this or any other act shall be so construed as to impose a tax on planters or farmers for selling salt or iron to their neighbours, purchased as a return load for their produce, carried in their waggons or otherwise to market. All the said licenses shall be taken out previous to the first day of May next, and shall be good and effectual for and during the term of one year. *Provided*, That if any new store shall be opened on land between the said first day of May, and the same day in the following year, the said tax shall be apportioned according to the time then to come of one year, and its amount shall be specified in the license, and in the commissioner's return.

III. *AND be it further enacted*, That the act concerning hawkers and pedlars shall be so construed, as to make it necessary for each hawker and pedlar, to obtain a license.

IV. *BE it further enacted*, That each hawker and pedlar, after obtaining a license to sell goods, wares, and merchandize, shall in the court of each county, at the courthouse of which he offers goods for sale, enter of record his license, obtained for vending goods, wares, and merchandize, for which he shall pay twenty-five cents to the clerk, and the clerk of each court shall keep a list of such licenses granted to hawkers and pedlars, and recorded, stuck up in some public place in the courthouse, expressing when the license was granted, when they will expire, and by what court they were granted, from their April court to the end of the year: And in case of failure, each hawker or pedlar shall be subject to the same penalty as if he had no such license. For every license granted by a commissioner under this act, he shall be entitled to twenty-five cents,

which shall be paid to him out of the public treasury, on warrant of the Auditor of public accounts, after his list of licenses shall be returned to the Auditor as aforesaid. Clerks of courts shall annually, on or before the first day of October, return to the Auditor a list of all hawkers' and pedlars' licenses granted by their respective courts, previous to the first day of September in every year, and every clerk neglecting this duty, shall forfeit fifty dollars, to be recovered in the General Court, by motion on ten days previous notice. The clerks of courts shall also on or before the fifteenth of December in every year, account on oath to the Auditor of public accounts for all taxes received by them, by virtue of their offices, previous to the first day of September in such year. So much of the act passed at the last session, intituled, "An act to impose certain taxes on law process, and for other purposes," as is contrary hereto, shall be and is hereby repealed.

V. AND for the more effectual collection of the taxes as aforesaid, and others, which may become due to the commonwealth, *Be it further enacted*, That ten days previous notice shall hereafter be necessary to any sheriff, collector, clerk, inspector, or notary public, for the purpose of recovering a judgment for any taxes, fine, or public dues of any kind, where by law the auditor is authorized to proceed against them, or any of them, by motion. No sheriff or other collector shall at any time be allowed to return any list of insolvents, or have any credit therefor, after twelve months shall have expired, from the period of the taxes becoming payable by such sheriff or collector, to which such list relates. A commission of five per cent. and no more shall be allowed to sheriffs and collectors for the collection of the taxes on licenses to be granted to merchants under this act, and on licenses to be granted to hawkers and pedlars, under an act, intituled, "An act concerning hawkers and pedlars;" any law to the contrary notwithstanding. A list of all licenses granted to merchants shall be returned by the commissioner granting the same, to the county or corporation courts for their examination, after which the said lists shall be delivered to the sheriffs or collectors, who shall annually, on or before the first day of October next, after the receipt thereof, account for and pay the same into the public treasury.

Clerks of courts to return a list of pedlars' licenses to the Auditor.

Notices on motions against sheriffs and other officers herein mentioned.

Commission allowed for collecting tax on licenses.

Commissioner to return list of licenses to county or corporation court for examination.

Commencement of this act.

VI. THIS act shall commence and be in force from the passing thereof.

CHAP. CCLVI.

An Act to enable Clerks of Courts to Administer Oaths in certain cases.

[Passed the 6th of January, 1800.]

I. **B**E it enacted, That the several clerks of courts of this commonwealth, and their deputies be, and they are hereby empowered to administer oaths in all cases wherein an affidavit is necessary as the foundation of any official act to be performed by any such clerk, which affidavit shall be filed, and shall in every respect be as effectual as if the oath thereto had been administered by a justice of the peace. And if any person sworn by any clerk or his deputy, by virtue of this act, shall give any evidence under such circumstances as would have constituted the same to be perjury, if done in presence of a court of record, the same shall be deemed perjury to all intents and purposes.

Clerks of courts authorized to administer oaths in certain cases.

II. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this Act.

CHAP. CCLVII.

An Act concerning the Service of certain Process, and the returns thereon.

[Passed the 28th of January, 1800.]

I. **B**E it enacted by the General Assembly, That where any sheriff or other officer shall return on any original or mesne process to him directed, that he has been kept off by force of arms, it shall and may be lawful for the plaintiff in the action in which the process so returned was issued, either to issue an alias or pluries, as the case may be, or to proceed in the said action against the defendant or defendants, as if such process had been returned executed.

II. THIS act shall be in force, from and after the passing thereof.

CHAP. CCLVIII.

An Act to repeal the Act authorizing the Executive to remit the Damages and Fines incurred by Sheriffs and Collectors, in certain cases.

[Passed the 4th of January, 1800.]

The act authorizing the Executive to remit damages, &c. repealed, with an exception.

The court before whom the auditor moves against delinquents vested with discretion to remit damages.

The 6th section of the act laying taxes is repealed.

Commencement of this act.

I. *BE it enacted*, That the act of Assembly, intituled, "An act authorizing the Executive to remit the damages and fines incurred by sheriffs and collectors, in certain cases," shall be and the same is hereby repealed; except in this, that the Executive shall still be authorized to remit damages or fines incurred by sheriffs or collectors before the twenty-sixth day of December, in the year one thousand seven hundred and ninety-four, on the terms in the said above recited act set forth and contained. *Provided however*, That when a motion is made by the auditor of public accounts against any delinquent sheriffs or collectors, and notice as heretofore required being first given, the court in pronouncing judgment upon the case, shall and may take into consideration all circumstances which may, in their opinion, entitle the party to a remission of damages, and give judgment for the same or not, as they may think proper.

II. *AND be it further enacted*, That the sixth section of the act, intituled, "An act laying taxes for the support of government," shall be, and the same is hereby repealed.

III. *THIS* act shall commence and be in force, from and after the passing thereof.

CHAP. CCLIX.

An Act to amend the Act, intituled, An Act concerning the Election of Members of General Assembly.

[Passed the 6th of January, 1800.]

Preamble.

WHEREAS in the act, intituled, "An act concerning the election of the members of the General Assembly," no provision is made for holding an election in case of the death of the high sheriff, whereby many of the good people of this Commonwealth are sometimes unrepresented; for remedy whereof,

Elections, by whom to be held in case of the high sheriff's death.

I. *BE it enacted by the General Assembly*, That in all cases whatsoever where by law the sheriff is directed to hold an election, in case of the death of the said sheriff, the senior magistrate, and in his absence, inability, or incapacity by being a candidate, the second, and so on in succession to the junior magistrate, is hereby authorized, empowered, and required to perform the duties of the sheriff prescribed by law in similar cases.

Penalties on magistrates refusing to act.

II. *AND be it further enacted*, The said magistrates, in case of refusal, shall be subject to all the penalties to which sheriffs are liable, and shall be entitled to the same compensation.

Repealing clause.

III. *ALL* acts within the purview of this act, are hereby repealed.

Commencement of this act.

IV. *THIS* act shall commence and be in force, from and after the passing thereof.

CHAP. CCLX.

An Act concerning Attornies, and for other purposes.

[Passed the 25th of January, 1800.]

State attornies how appointed.

I. *BE it enacted*, That attornies to prosecute on behalf of the Commonwealth, shall hereafter be appointed in the district and all other inferior courts of this commonwealth, by an order of such courts respectively, which said attornies shall be entitled to recover of delinquents the fees allowed by law, and moreover the attornies for the commonwealth in the district courts, shall be allowed the salary as now fixed by law, and every such attorney in the county or corporation courts, shall be allowed a reasonable sum for their services, and for which no other fee or reward is allowed by law, as heretofore annually to be levied by such court, on the county or corporation.

Auditor not to allow attornies claims

II. *AND be it further enacted*, That it shall not hereafter be lawful for the auditor of public accounts to allow the claim of any attorney for any county

or corporation court for any services to be performed by him therein; and that all laws within the true intent and meaning of this act, shall be, and the same are hereby repealed.

III. THIS act shall commence and be in force from and after the passing thereof. Commencement of this act

CHAP. CCLXI.

An Act to Increase the Wages of the Members of the General Assembly for the present and all future Sessions.

[Passed the 13th of January, 1800.]

WHEREAS it is found by experience that the wages of the members of the present General Assembly, are insufficient for their support: Preamble.

I. BE it therefore enacted, That the wages of the members of the General Assembly, shall be for the present and future sessions, three dollars per day, and mileage as heretofore. Wages of the members three dollars.

II. THIS act shall commence and be in force, from and after the passing thereof. Commencement of this act.

CHAP. CCLXII.

An Act for confirming and establishing the Boundary Line between this State and the State of Kentucky, ascertained and fixed by certain Commissioners appointed by both States, and for other purposes.

[Passed the 13th of January, 1800.]

WHEREAS the commissioners appointed to ascertain and adjust the boundary line between this state and the state of Kentucky, in conformity to the act of separation between the two states, have proceeded to the execution of the said business, and made a report thereof in the words following, to wit:—"The commissioners for ascertaining and adjusting the boundary line Preamble.

between the states of Virginia and Kentucky, appointed pursuant to the act of separation between the two states, to wit: Archibald Stuart, General Joseph Martin, and Creed Taylor, Esquires, on the part of the former, and John Curn, Robert Johnston, and Buckner Thruston, Esquires, on the part of the latter, having this day met at the Forks of Great Sandy river, according to appointment, and taken into consideration the said act of separation, have, and by these presents do, unanimously, agree and declare, that the boundary line Report of the commissioners.

between the said states, is, and shall be, and remain as followeth, to wit: To begin at the point where the Carolina, now Tennessee line crosses the top of the Cumberland Mountain, near Cumberland Gap; thence north-eastwardly along the top or highest part of the said Cumberland Mountain, keeping between the head waters of Cumberland and Kentucky rivers, on the west side thereof, and the head waters of Powell and Guest's rivers, and the pound fork of Sandy, on the east side thereof, continuing along the said top or highest part of said mountain, crossing the road leading over the same at the Little Paint Gap, where by some it is called the Hollow Mountain, to where it terminates at the west fork of Sandy, commonly called Russel's Fork; thence with a line to be run north forty-five degrees east, till it intersects the other great principal branch of Sandy, commonly called the north-eastwardly branch; thence down the said north-eastwardly branch to its junction with the main west branch, and down Main Sandy, to its confluence with the Ohio." And whereas Brice Martin and Hugh Fulton, the surveyors appointed by the said commissioners to run and mark the said line, did, on the second day of November, one thousand seven hundred and ninety-nine, certify, that they did run the same, beginning at a red oak, white oak, and two pines, marked V. K. on each, standing on a high cliff, where the said West or Russel's fork of Sandy runs through the said Cumberland Mountain, near the mouth of a branch; thence with the said course to the said principal branch of Sandy, commonly called the north-eastwardly branch, eight thousand six hundred and forty poles to a poplar, black gum, and two spruce pines, each marked with the letters V. K. and that they had also marked the trees on the said line with four chops in the form of a diamond. And whereas it is deemed proper and expedient that the said

Surveyors certificate.

Boundary line between
Virginia & Kentucky.

Report of the commis-
sioners respecting cer-
tain entries and loca-
tions.

Entries made in Ken-
tucky of lands which
fall into this state,
valid.

Commencement of this
act.

boundary line so fixed and ascertained as aforesaid, should be established and confirmed on the part of this Commonwealth:

I. *BE it therefore enacted by the General Assembly of the Commonwealth of Virginia*, That the said boundary line between this state and the state of Kentucky, as laid down, fixed, and ascertained by the said commissioners above named, in their said report above recited, shall be, and is hereby fully and absolutely, to all intents and purposes whatsoever, ratified, established, and confirmed on the part of this Commonwealth, as the true, certain, and real boundary line between the said states.

II. AND whereas the said commissioners have made a further report to the present General Assembly, in the words following, to wit: "And whereas doubts have heretofore prevailed, which of the main branches of Sandy the act for dividing the county of Fincastle, (which is the act referred to for the line between the two states) meant and intended that the line should run up, and locators have been led into errors in entering their land warrants, it is therefore further unanimously agreed between the said commissioners, that no land claims founded on entries within the forks of Sandy, or east of the Cumberland Mountain, on the waters of Sandy, previous to the first day of October, one thousand seven hundred and ninety-nine, on either side of the before mentioned line, to be run from the end of the said Cumberland Mountain, to intersect the said main north eastwardly branch of Sandy, ought to be in any wise affected by the said doubts which have existed respecting the said line, but that the said claims ought to remain valid and secure, as if no such doubts had existed, or as if the territory had been within the acknowledged limits of either state, that is to say, that all entries of land made in the offices of either state, which by this adjustment of the line falls into the other, shall be as valid as if made in the offices of that state in which the land lies, and that it be recommended to the said states to pass mutual laws for the ratification of the said claims, pursuant to the meaning and intent of this agreement between us, and that until such laws shall be passed, this instrument shall not be in force, but shall take full effect immediately after the passage of such laws." And whereas it is deemed also proper and expedient to confirm and validate all such entries above mentioned, in conformity to the recommendation of the said commissioners, in their said report last above recited: *Be it further enacted by the authority aforesaid*, That all claims for entries of lands made by any person or persons, in any surveyor's offices in the state of Kentucky, since the separation thereof from this state, which said lands by means of the adjustment and establishment of the said line above mentioned, have fallen into this state, shall be as valid and sufficient to the several claimants under such entries to all intents and purposes, as if the same had been made in the proper surveyors' offices of this state; any thing in any law contained to the contrary, notwithstanding.

III. THIS act shall commence and be in force, from and after the passing of a like law on the part of the state of Kentucky.

CHAP. CCLXIII.

An Act concerning the Militia of this Commonwealth.

[Passed the 28th of January, 1800.]

Arms to be distributed
to the militia by the
executive.

Officers to give receipts
for the arms.

I. *FOR* the purpose of arming the militia of this Commonwealth, *Be it enacted*, That the Executive be, and they are hereby authorized and directed to distribute without delay amongst the several regiments of militia, according to their strength as ascertained by the last returns of each, two thirds of all the arms and accoutrements belonging to the state, as well those on hand as those that may hereafter be procured under appropriations already made by law: *Provided*, That before the delivery thereof, they shall cause each musket and cartridge box to be stamped with the name of the county and number of the regiment to which they may be allotted.

II. *AND be it further enacted*, That it shall be the duty of each and every officer commanding a regiment to receive such arms and accoutrements when they shall be offered, and grant a receipt therefor to the governor, for the time being, describing their condition at the time of such receipt, and shall moreover deliver the same to the officers commanding battalions in such regiment, in like proportion. And it shall be the duty of officers commanding battalions

respectively, to receive all such arms and accoutrements, and grant a receipt therefor to the officer commanding the regiment, stating their condition at the time of such delivery, and shall moreover deliver the same to the several officers commanding companies in the respective battalions, in due proportion, according to the number of men belonging to such companies. It shall be the duty of each officer commanding a company to receive the same, and grant a receipt therefor to the officer commanding the battalion, describing in like manner the condition of such arms, and shall moreover deliver the same into the hands of his non-commissioned officers and privates, in such manner as may be directed by the commanding officer of the regiment; and it shall be the duty of all non-commissioned officers and privates to receive such arms when they shall be offered, and grant a receipt for the same, making themselves liable for the safe-keeping thereof, and for their delivery when legally called on for that purpose.

III. IT shall be the duty of all persons in the militia who receive into their possession public arms, according to the direction of this act, to keep the same in neat and good order, the musket, barrel and bayonet free from rust, and bright, the lock clean, well oiled, and with a good flint, and to appear with such arms at every muster, where by law they are obliged to appear, and at all other times when they may be called on duty; and at all musters the officers in their respective stations, shall be diligent and careful in training and instructing their men, and inspecting their arms, in noting delinquencies, and making report thereof as herein after directed.

Militia to keep their arms in good order.

IV. IF any person in the militia possessed of public arms as aforesaid, shall be about to remove out of the limits of his regiment, or during such possession arrive at the age of forty-five years, or in any other manner have right to be discharged from militia duty, every such person before such removal, or before he shall be entitled to any such discharge, shall deliver to the officer commanding the company to which he belongs in good order and unimpaired, such public arms as may have been delivered to him, and if any person so possessed shall die, it shall be the duty of the officer commanding the company to which he belonged, immediately to take possession of such arms, inspect, and take care of them in the manner herein after directed, to be delivered to some other person in his company in manner before directed.

Militiaman removing or arriving to 45 years of age, to return his arms

V. IT shall be the duty of officers commanding companies, within ten days after each muster which he shall have, to make return of his company to the major commanding the battalion, reporting all delinquencies that happen at such muster, and if at any time it shall come to his knowledge, that any one of his company has embezzled or disposed of his arms, or has removed out of the limits of his regiment, without delivering them up as herein before directed, in all such cases, it shall be his duty immediately to proceed by and under the authority of a warrant according to law, issuing from any justice of the peace of the county or counties, where such arms, or any part thereof, are supposed to be, to regain the possession of such arms wherever the same may be found; and it shall moreover be the duty of such captain to proceed, as is herein after directed, to bring to punishment according to this act, every person offending in the disposing, buying, or concealing such arms.

Officers to recover arms embezzled or removed

VI. AND for enforcing obedience to this act, *Be it enacted*, That the following forfeitures and penalties shall be incurred for delinquencies, that is to say; by a commanding officer of a regiment, for failing or refusing to receive the arms for his regiment and delivering them out as directed, for each and every such offence or neglect, shall forfeit and pay a sum not exceeding five hundred dollars; by a commanding officer of a battalion, for failing to do any of the duties required by this act, for each and every such neglect, shall forfeit and pay a sum not exceeding two hundred and fifty dollars; by any captain or commanding officer of a company, for failing to receive any arms, or to give receipts therefor, failing to distribute them according to this act, and take receipts for the same, to make any report concerning the said arms, to deliver the same according to this act, for each and every such offence, neglect, or failure, he shall forfeit and pay a sum not exceeding fifty dollars; by a subaltern officer failing to do any of the duties herein required of his captain, in case of his absence, for each and every such offence, failure, or neglect, shall forfeit and pay a sum not exceeding fifty dollars; to be adjudged of and determined by their respective regimental courts of enquiry; by any non-commissioned officer or private, for refusing to receive any arms when offered, for failing to keep

Penalties on officers for failure or neglect of duty herein.

Penalty for transferring
or purchasing public
arms.

the same in order, as directed by this act, to return the same when legally required, for each and every such offence, failure, or neglect, shall forfeit and pay a sum not exceeding one dollar.

VII. *AND be it further enacted*, That any non-commissioned officer or soldier, who shall attempt to transfer a right to the said arms in his custody, or to any part thereof, by sale or otherwise, to any person or persons, accompanied by actual delivery, as well every person so offending, as every person purchasing or concealing the said arms, knowing the said arms to be the property of the public, shall forfeit and pay for each offence the sum of fifteen dollars, to be recovered in the name of the commonwealth, by motion in any court of record within this state, provided such person, his agent or attorney shall have ten days previous notice of such motion; and the right of the commonwealth to such arms shall not by such or any other mode of transfer, be impaired or taken away.

Troops of artillery, &c.
to be armed agreeably to
their numbers.

VIII. *AND* whereas the several companies of artillery, grenadiers, light infantry, riflemen, and troops of cavalry, are allotted into classes by entire companies and troops, *Be it therefore enacted*, That the governor shall cause them to be armed by entire troops and companies, agreeable to their respective numbers, beginning at number one in each regiment, as soon as the arms necessary for that purpose can be obtained; and they shall be subject to the same rules and regulations, for the safe keeping the said arms, as are prescribed by this act to the rest of the militia.

Sheriffs to return lists of
insolencies when col-
lecting militia fines.

IX. *AND be it further enacted*, That it shall be the duty of sheriffs who have or may undertake the collection of militia fines, to return before the next succeeding regimental court of enquiry, after receiving a list of such fines, a list of all insolencies within such regiment, to be examined by the said court, who shall judge of such insolvents, and shall direct their clerk to certify a part or the whole of any such list, as to them shall seem just. For the amount of which list so certified, the sheriff shall be allowed a credit in settling his account with the auditor.

X. *AND be it further enacted*, That the sheriffs shall be allowed till the fifteenth day of December in each year, to settle up his said account with the auditor.

XI. *THAT* all charges and expenditures necessary for carrying this act into effect, shall be paid out of any money in the public treasury.

CHAP. CCLXIV.

An Act supplemental to the Act to amend the Penal Laws of this Commonwealth.

[Passed the 25th of January, 1800.]

Punishment for offences
not therein provided for
after the act amending
the penal laws shall com-
mence in force.

I. *BE it enacted and declared by the General Assembly of Virginia*, That from and after the period when the act, intituled, "An act to amend the penal laws of this commonwealth," shall commence and be in full force and operation, if any free person shall be convicted (either as principal or accessory) of any felony or offence whatsoever, not already provided for by the said recited act, the punishment whereof by the laws in force at and before the commencement of the said recited act, may amount to death, without the benefit of clergy, every such offender from whom the benefit of clergy would have been taken away, shall be sentenced to undergo a confinement in the jail and penitentiary house, established by the said recited act, for a period not less than one, nor more than ten years, and shall be kept therein at hard labour, or in solitude, and in all other respects be treated as in and by the said recited act is directed.

Called courts failing to
meet, recognizances to
stand continued till next
court in course.

II. *AND* whereas the method heretofore observed in calling courts for the examination and trial of criminals in the counties and corporations of this commonwealth, has been found inconvenient and expensive, and sometimes to obstruct public justice: For remedy whereof, *Be it further enacted and declared by the General Assembly*, That hereafter when any free person or slave shall be committed to jail, by any justice of the peace of any county or corporation for examination or trial, and the court summoned by the sheriff for the examination or trial of such free person or slave, shall fail to meet as heretofore prescribed by law, all the recognizances entered into by any person or persons to appear at such called court, shall stand obligatory to the next court of such county or corporation, and every such person or persons shall be obliged to appear accordingly, and that such examination or trial shall be at the next court

to be held for such county or corporation, which court shall be composed of the same number of justices as are now required by law; any thing in this or any other act to the contrary notwithstanding.

III. THIS act shall commence and be in force so soon as the act herein before mentioned and recited, shall, by virtue of the Governor's proclamation, commence and be in operation. Commencement of this act.

CHAP. CCLXV.

An Act concerning the Junior Clerk in the Auditor's Office.

[Passed the 22d of January, 1800.]

I. **B**E it enacted by the General Assembly, That the junior clerk in the Auditor's office shall hereafter be entitled to receive for his services annually, the sum of five hundred dollars, to be paid as heretofore in quarterly payments.

Salary of the junior clerk in the auditor's office.

II. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act.

CHAP. CCLXVI.

An Act authorizing the Governor of this Commonwealth to convey to the United States, upon certain conditions, the Property of this Commonwealth called Gosport.

[Passed the 25th of January, 1800.]

WHEREAS it has been represented to the present General Assembly, that the government of the United States are desirous that certain lands, the property of this Commonwealth, commonly called and known by the name of Gosport, should be vested in the United States, for the purpose of establishing a navy-yard on the same:

Preamble.

I. **B**E it enacted by the General Assembly, That it shall and may be lawful for the Governor of this Commonwealth, and he is authorized to appoint some fit and proper person, to meet such person as shall be appointed on the part of the United States, to ascertain and fix the value of the property belonging to this Commonwealth, situate near the town of Portsmouth, in the county of Norfolk, commonly called and known by the name of Gosport. So soon as the value of the property shall be ascertained and the Governor shall be satisfied that the Government of the United States are willing to pay the amount thereof to this Commonwealth, then and in that case it shall be lawful for the Governor of this Commonwealth, and he is hereby authorized for, and in behalf of this Commonwealth, by proper deeds in writing, under his hand and the seal of the Commonwealth, to convey, transfer, assign and make over unto the United States, all interest in, and title to, as well as all the jurisdiction which this Commonwealth possesses over the public lands commonly called and known by the name of Gosport before mentioned, for the purpose of establishing a navy yard: *Provided*, That nothing herein contained shall be so construed as to prevent the officers of this state from executing any process whatever within the jurisdiction hereby directed to be ceded.

Governor to convey Gosport to the United States on certain conditions.

II. **A**ND be it further enacted, That in case the government of the United States shall at any time hereafter abandon the design of establishing a navy-yard at the place hereby ceded to the United States, or after the establishment thereof shall discontinue the same, then and in that case the property in the soil, and the jurisdiction over the territory hereby directed to be vested in the United States, shall revert to this Commonwealth, and shall be considered as the property and subject to the jurisdiction of the same, in like manner as if this act had never been made: *Provided*, That in such case this Commonwealth will repay to the government of the United States, the sum or sums paid by the United States in consideration of the cession hereby directed to be made.

III. THIS act shall commence and be in force from and after the passing thereof.

General Assembly, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 1st day of *December*, in the Year of our Lord, 1800.

CHAP. CCLXVII.

An Act to amend the act, intituled, "An act, to amend an act, intituled an act, for appointing Electors to choose a President and Vice-President of the United States."

[Passed the 2d of December, 1800.]

Senate and House of Delegates authorized to supply the vacancies occasioned by the absence of electors chosen by the people.

I. **BE** it enacted by the General Assembly, That if any one or more of the electors chosen by the people under the authority of the act, intituled an act, to amend an act, intituled an act for appointing electors to choose a president and vice-president of the United States, shall from any cause whatever, fail to attend at the place appointed by the said act for the meeting of the electors at three o'clock in the afternoon of this the second day of December, one thousand eight hundred, it shall then be lawful for the Senate and House of Delegates, and they are hereby required by joint ballot to proceed to supply such vacancy or vacancies until the number of twenty-one electors for the purpose aforesaid is completed, which elector or electors so appointed shall be entitled to vote for a President and Vice-President of the United States in the same manner as if he or they had been chosen in the manner prescribed by the said law.

The electors so chosen to be superseded by the attendance of those chosen by the people.

II. *PROVIDED nevertheless*, That if any elector or electors chosen by the people under the authority of the act aforesaid, shall attend at or before the hour of ten in the morning of to morrow, then the appointments made under this act for the purpose of supplying such supposed vacancy, shall be void and of no effect.

Repealing clause.

III. SO much of the above recited act as comes within the purview of this act, shall be, and the same is hereby repealed.

Commencement of this Act.

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCLXVIII.

An Act to amend an act, intituled, "An act, to reduce into one the several acts concerning Mills, Milldams, and other obstructions of Water Courses."

[Passed the 18th of December, 1800.]

Preamble.

WHEREAS doubts have arisen in the construction of the 15th section of the act, intituled, "An act to reduce into one the several acts concerning Mills, Mill-dams, and other obstructions of water courses," passed the 21st day of December, 1792:

Clerk of the county to advertise all applications for removing obstructions.

I. *BE it enacted by the General Assembly*, That in all cases of petition or application to the court of a county for the removal of obstructions across rivers and creeks, the clerk of the said court by order thereof shall issue a notification to all the magistrates of said county, and also advertise at the courthouse door, the day such application or petition will be decided upon. Two-thirds of the magistrates in each county shall be requisite to constitute a court for the trial or hearing such petition or application, a majority of whom are hereby empowered to contract with any person or persons for clearing the same, and to levy to much money in their county levy as shall be sufficient to discharge such agreement or contract.

Two thirds of the magistrates requisite for a decision.

Repealing clause.

II. ALL acts and parts of acts containing any thing within the purview of this act, shall be and are hereby repealed.

Enacting clause.

III. THIS act shall commence and be in force, from the passing thereof.

CHAP. CCLXIX.

An Act to authorize the Commissioners of the Revenue to re-assess Lands in certain cases.

[Passed the 23d of December, 1800.]

In what cases lands may be reassessed, or a division made.

BE it enacted by the General Assembly, That where any person shall hereafter die seized of any tract of land, the whole of which might have

been assessed by the commissioner of the county wherein the same lies at an equal rate, but which when divided among the heirs or devisees of the decedent shall contain some one or more parcel or parcels of a quality inferior to that of the other parcel or parcels, the heir or devisee or heirs or devisees, or his, her, or their guardian or guardians, as the case may be, to whom the parcel or parcels of such inferior quality may be allotted, may apply to the commissioner within whose district such parcel or parcels may lie, to make a re-assessment of the same, the said commissioner on such application shall and he is hereby required forthwith to go upon the parcel or parcels of land proposed to be reassessed, and according to the best of his skill and judgment apportion the tax originally assessed upon the entire tract of land, amongst the holders of the different parcels, having due regard to the relative value of the same, and thereupon proceed to charge them in his book of the land tax with their respective proportions of the tax of such land according to the apportionment by him made.

from among heirs.

II. *AND be it further enacted*, That if any person shall be seized of any tract of land as aforesaid and shall alienate the same to different alienees or a part thereof to one or more persons by which some one or more parcel or parcels shall be inferior in value to the other parcel or parcels, the alienor or alienee as the case may be, who shall have right to the parcel or parcels of such inferior value may have the same relief, and the commissioner of the district wherein the land lies shall perform the same duties as are herein before provided in the case of heirs or devisees. *Provided nevertheless*, that any party or parties who shall think themselves aggrieved by such reassessment, may require the commissioner to go again on the land with such persons as the parties or their representatives may choose, there being only one person for each different parcel of land, who may review the commissioner's valuation, and if they or a majority of them agree, their valuation shall be final, but if divided, the valuers may call in an umpire whose opinion shall be final. And the commissioner shall charge the same in his book so as he make it correspond with the decision of such referees or umpire.

When they may be reassessed among the alienees of the original holder.

Proviso.

III. THE person or persons making application to the commissioner for such purpose, shall pay to him fifty cents for each parcel of land by him so valued and reassessed.

Commissioner's fee.

IV. THIS act shall commence and be in force from the passing thereof.

Enacting clause.

CHAP. CCLXX.

An Act to regulate Costs in certain Cases.

[Passed the 25th of December, 1800.]

I. **B**E it enacted by the General Assembly, That any officer who shall levy distress for rent, shall be entitled in case the property be replevied, to the same commissions as in case of a forthcoming bond taken under any writ of execution for the like sum, and may include such commission in every bond taken under such distress. And in all cases where the county or corporation courts are authorized to render judgments or award of execution upon motions, fifty cents shall be taxed in the bill of costs for each notice proven to have been delivered in case the plaintiff or plaintiffs succeed. And it shall be the duty of the sheriff or other officer to give notices upon the bonds aforesaid in every case if required by the plaintiff or plaintiffs, his or their agent or attorney.

Fee to officer when the property is replevied.

Fee for notice.

II. THIS act shall commence and be in force, from and after the passing thereof.

Enacting clause.

CHAP. CCLXXI.

An Act to Extend the Jurisdiction of Justices of the Peace.

[Passed the 16th of January, 1801.]

I. **B**E it enacted by the General Assembly, That when the cause of action shall not exceed ten dollars, or four hundred pounds of Tobacco, the same is declared to be cognizable, and finally determinable by any one justice of the peace who may give judgment, and thereupon award execution against the goods and chattels of the party against whom such judgment shall be given, which shall be executed and returned by the sheriff or constable to whom directed.

Jurisdiction extended to ten dollars.

ed, under the penalty of ten dollars, to be recovered by the party grieved; but no execution shall be by any justice awarded against the body of the defendant.

Exception.

II. ALL petitions which may be brought by the first day of April next, for any sum less than ten dollars, or four hundred pounds of Tobacco, shall be tried and determined as heretofore; and executions may thereupon issue.

Repealing clause.

III. ALL laws within the meaning of this shall be repealed.

Enacting clause.

IV. THIS act shall be in force from the first day of April next.

CHAP. CCLXXII.

An Act concerning Patroles.

[Passed the 16th of January, 1801.]

By whom to be ordered out.

I. **B**E it enacted by the General Assembly, That any justice of the peace shall have power to order out Patroles when to him it shall appear necessary, and may on particular occasions appoint an officer of patrol, who shall have the same powers, and receive the same pay, as the patrol appointed by the commanding officer of the battalion. Any officer or patrol, so ordered out by a Magistrate, failing to attend and do his duty, shall forfeit and pay, the officer three dollars, and the patrol one dollar, each; to be recovered and applied in the same manner as other militia fines.

Regulation in Petersburg.

II. *AND be it further enacted*, That the court of the corporation of Petersburg shall have power to divide the militia, residing within the limits of said town, into wards or districts, and may appoint one or more officers in each ward, to be denominated captains of patrol; each officer shall be compelled, when on duty, to visit all parts of said town, and shall patrol once in every week (or oftener if required by the court,) and shall receive for every twelve hours service, the officer one dollar, and each patrol seventy-five cents, to be levied on the house keepers in said town. The militia of said town shall be exempted from patrol duty without the limits of the town; but in all other services, required by law, shall continue attached to their respective regiments.

Watch in Fredericksburg.

III. *AND be it further enacted*, That the corporation court of Fredericksburg shall be, and is hereby empowered, to impose and levy an annual tax upon the house keepers within the jurisdiction thereof, to be appropriated to paying a watch to be kept therein.

Enacting clause.

IV. THIS act shall commence and be in force from the passing thereof.

CHAP. CCLXXIII.

An Act to Prevent the Killing of Deer, within certain Periods annually.

[Passed the 16th of January, 1801.]

Penalty for killing deer within certain periods.

I. **B**E it enacted by the General Assembly, That if any free white person, or persons, within this Commonwealth, by shooting, trapping, hunting, ranging, driving with dogs, or otherwise, shall kill or destroy any one or more deer, (the same not being his own tamed, or shall be found in possession of any) between the first day of January, and the first day of August, in any year, every such free white person, or persons, so offending, for every deer so killed or destroyed, shall forfeit and pay the sum of five dollars, to be recovered, with costs, by warrant, before a justice of the peace of the county where the offence shall have been committed, or the offender or offenders may reside, to the use and benefit of the informer, provided the offence be proved by the confession of the party, or by the oath of one or more credible witness or witnesses, other than the informer; but if the offence should be established by the oath of the informer only, in that case the said forfeiture shall be payable to the Overseers of the poor of the county where the conviction shall have been, and applied towards lessening the poor rates thereof. *And be it further enacted*, That if any white person, free negro, or mulatto, shall be guilty of the like offence, and be thereof duly convicted before a justice of the peace, of the county where the offence shall have been committed, or the offender resides, the said offender shall forfeit and pay to the informer, or to the Overseers of the poor, as the case may be, the sum of five dollars, and costs; and in case of inability, or refusal

to pay, shall, by order of the said justice of the peace, receive not less than ten, nor more than twenty, lashes on his bare back.

II. **THAT** if any slave shall be guilty of the like offence, and be thereof lawfully convicted before any justice of the peace, of the county where the offence shall have been committed, or the master or owner of such slave resides, such slave shall, by order of the said justice of the peace, receive on his bare back not less than ten, nor more than twenty, lashes. Penalty on slaves.

III. **AND** be it further enacted, That nothing herein contained shall be construed to extend to any of the counties west of the Allegany mountain. Restriction of this act.

IV. **THIS** act shall commence and be in force from and after the passing thereof. Enacting clause.

CHAP. CCLXXIV.

An Act to empower the Governor to transport Slaves condemned, when it shall be deemed expedient.

[Passed the 15th of January, 1801.]

I. **BE** it enacted by the General Assembly, That the governor with the advice of council, be, and is hereby authorized, when it shall be deemed expedient, to contract and agree with any person, or persons, for the sale and purchase of all those slaves who now are or hereafter may be under sentence of death, for conspiracy, insurrection, or other crimes. The person, or persons, at the time of making such purchase, shall enter into bond, with sufficient security, in the penalty of five hundred dollars for each slave, payable to the governor and his successors, for the use of the commonwealth, with condition that he, or they, will carry out of the United States all the slaves by him, or them, purchased, who are now, or who hereafter may be under sentence of death; and the sale and disposal of every such slave shall amount to a reprieve of him, or them, from such sentence of death. *Provided always*, that if any slave, sold pursuant to this act, shall return into this state, he shall be apprehended and executed under the condemnation of the court, as if no reprieve had taken place. And in all cases where any slave or slaves shall be tried and convicted for any crime which may affect life, the court before whom such trials shall be had, shall cause the testimony for and against every such slave to be entered of record, and a copy of the whole proceedings to be transmitted forthwith to the Executive. Slaves under sentence of death for conspiracy to be purchased and transported.

II. **THE** owners of all slaves so sold, or transported, shall be paid in the same manner as for slaves executed. Subject to execution if they return. Testimony in all trials to be recorded, and a copy transmitted to the Executive.

III. **THIS** act shall commence and be in force, from the passing thereof. Owners to be paid. Enacting clause.

CHAP. CCLXXV.

An Act directing the Allowances of Witnesses in certain Cases.

[Passed the 21st of January, 1801.]

I. **BE** it enacted by the General Assembly, That in all cases hereafter, when any person, or persons, shall be summoned as a witness, or witnesses, in any prosecution for a crime or misdemeanor, to attend any court out of the county, or counties, in which he, she, or they may reside, the same allowance shall be made him, her, or them, for such attendance, as is allowed by law to witnesses and venire-men in such case attending the district courts. Compensation to witnesses summoned out of the county of their residence.

II. **THIS** act shall commence and be in force from the passing thereof. Enacting clause.

CHAP. CCLXXVI.

An Act paying Sheriff for their trouble, in attending to compare the polls, on elections for Senators to the General Assembly.

[Passed the 20th of January, 1801.]

I. **BE** it enacted by the General Assembly, That the sheriffs and other officers, conducting an election for a senator, to the General Assembly, shall be allowed one dollar, sixty-seven cents, per day, for each day on which they shall necessarily attend to compare the different polls; and four cents per Allowance made.

mile for travelling to and from the place appointed for that purpose, besides ferriages, to be paid in the same manner as the electors who are to vote for a president of the United States are paid.

CHAP. CCLXXVII.

An Act to increase the rates of pilotage at certain places.

[Passed the 21st of January, 1801.]

Preamble.

WHEREAS the rates of pilotage heretofore allowed by law, have in certain cases, been found inadequate to the services performed: for remedy whereof,

Rates increased.

I. *BE it enacted by the General Assembly*, That the rate of pilotage, at present allowed by law on all foreign bottoms coming from sea to any of the harbours or ports of delivery within this Commonwealth, shall be increased in the proportion of one-fourth.

Rates on American bottoms.

II. *AND be it further enacted*, That the pilots shall be entitled to receive hereafter nine pence per foot, in addition to the pilotage at present allowed by law, on all American bottoms, and two dollars in addition to the rates now allowed on all American vessels coming in, from sea to the first port.

From Hampton road to sea.

III. *AND be it further enacted*, That the rate of pilotage from Hampton road to sea, shall hereafter be seven dollars and an half, and no more.

Allowance for exposures to contagion.

IV. *AND be it further enacted*, That in every case hereafter, when a pilot shall be decoyed on board a vessel, having on board any contagious disease, and thereby be compelled to remain on board and perform quarantine, such pilot shall be allowed and paid two dollars per day for every day of such detention: and moreover, in every case where a pilot boat shall be employed in performing the orders, whereby the pilot is enjoined to give notice of contagion on board any vessel to the health officer, the compensation of five dollars which is allowed in and by the third section of the act passed in the year one thousand seven hundred and ninety-five, upon the said subject, shall be, and is hereby increased one-fourth.

For detention.

V. *AND be it further enacted*, That in all cases hereafter, when a vessel outward bound shall be laden and anchored in Hampton road, and the captain shall detain the vessel and pilot after a fair wind offers for going out to sea, such pilot shall then be allowed and paid ten shillings per day, during such detention of vessel and pilot: *Provided always*, that the same shall not extend to vessels falling down into Hampton Road, and not intending to proceed immediately to sea; but in every such case, the captain may discharge the pilot.

Maryland pilots.

VI. *AND be it further enacted*, That the pilots residing in the state of Maryland may hereafter apply to the examiners appointed under the authority of this commonwealth, and on obtaining a branch, may exercise such branch in like manner as the pilots of Virginia, and shall receive similar fees: *Provided always*, that this privilege shall not be enjoyed until the state of Maryland shall have passed a similar law in favor of the pilots of Virginia. No negro or mulatto shall after the passing of this law, obtain a branch as a pilot: *Provided however*, that this prohibition shall not extend to, or affect any such persons now having a branch.

When the fees shall be paid.

VII. THE fees allowed by law for piloting a vessel into this commonwealth, shall only be paid when a pilot has boarded the vessel without the capes of Virginia, or opposite to them. If the vessel shall be boarded by the pilot within the capes, then the pilot shall demand and receive only one half of the fees before specified into Hampton road; the fees for pilotage up the rivers, as heretofore, with the additional rates allowed by this act.

Fines increased.

VIII. THE fines and penalties imposed upon pilots by the act, intituled, "An act to reduce into one the several acts for regulating pilots, and ascertaining their fees," shall be, and are hereby increased one-half respectively.

Repealing clause.

IX. SO much of the last recited act as permits pilots to deposit their accounts with the collector, and authorises him to refuse a clearance to the vessel so piloted, until the payment of the account, shall be, and hereby is repealed.

Who shall pay the pilots.

X. THE consignee or supercargo of every vessel not owned by a citizen

residing in this state, shall be liable for the pilotage, if it be not paid by the master.

XI. ALL boats on the sea shore shall hereafter have their names marked four feet below the head of the forefall. Boats, how marked

XII. ALL and every act and parts of acts, coming within the purview of this act, shall be, and are hereby repealed. Repealing clause.

XIII. THIS act shall commence and be in force, from the first day of March next. Enacting clause.

CHAP. CCLXXVIII.

An Act concerning the Manufacture of Tobacco.

[Passed the 20th of January, 1801.]

I. **B**E it enacted by the General Assembly, That no person shall at any time after the last day of February next, stem or manufacture any tobacco, without first having obtained a licence for that purpose, in the manner prescribed by this act: and every person who shall presume to stem or manufacture tobacco, without such licence, shall forfeit and pay fifteen dollars for every fifty pounds of tobacco so by him or her stemmed or manufactured, to be recovered by an action on the case, in the name of the deputy attorney, of the county or corporation where the offence shall be committed; one-half of which fine shall go to the informer, and the other half shall be applied towards lessening the county or corporation levy.

Penalty for stemming or manufacturing tobacco without licence.

II. EVERY person intending to stem or manufacture tobacco, may apply for a licence to the court of the county or corporation where he resides, and where such stemmery or manufactory is intended to be carried on: and the said courts are hereby authorised to grant such licence, upon satisfactory evidence being produced to them that the person applying is a man of honesty, probity and good demeanor; but no licence shall be granted for a longer term than one year.

Manner in which a licence is to be obtained.

III. NO stemmer or manufacturer shall stem or manufacture, or suffer to be stemmed or manufactured, any tobacco but such as shall have been inspected and passed at some public inspection in this Commonwealth; and every stemmer or manufacturer who shall stem or manufacture, or suffer to be stemmed or manufactured, any tobacco which shall not have been inspected and passed in manner aforesaid, shall forfeit and pay fifteen dollars for every fifty pounds of tobacco by him stemmed or manufactured, or suffered to be stemmed or manufactured.

Tobacco first to be inspected and passed.

IV. EVERY stemmer or manufacturer who shall buy or receive any tobacco from any negro, mulatto or Indian, (bond or free) shall forfeit and pay five times the value of the tobacco so bought or received, and shall moreover be liable to be prosecuted as a receiver of stolen goods, provided the same be stolen tobacco.

Penalty for buying tobacco from any negro.

V. CORPORATION courts shall have the exclusive right of granting licences to stem or manufacture tobacco within the limits of their respective corporations.

VI. EVERY person to whom a licence shall be granted to stem or manufacture tobacco, shall in open court, and at the same at which licence is granted, enter into bond with two sufficient sureties, in the penalty of two thousand dollars, payable to the governor and his successors, for the use of the commonwealth, with a condition that he will not export, or suffer to be exported, either by land or water, any tobacco received by him for the purpose of stemming or manufacturing, until the same has been stemmed or manufactured, that he will not stem or manufacture, or suffer to be stemmed or manufactured, any tobacco, but such as shall have been inspected and passed, at some public inspection in this commonwealth: and that he will not buy or receive any tobacco from any negro, mulatto or Indian, bond or free.

Bond and security to be given.

VII. AND upon every breach of the condition of such bond, an action of debt may be instituted against all the obligors in the said bond, or against the survivor or survivors of them, or against the legal representatives of the deceased obligor or obligors, and judgment shall be rendered thereon: And the said bond shall not become void on the first recovery, but may be put in suit and prosecuted from time to time, until the whole penalty be recovered.

How suits may be brought in case of breach of this act, and judgment recovered.

And if in any such action brought against the principal obligor, or against him and one or both of his sureties, judgment shall be recovered, such judgment shall be a complete revocation of his licence, and he shall, at no time thereafter, be capable of obtaining another licence to stem or manufacture tobacco.

Duty of inspectors in certain cases.

VIII. THE inspectors of the several warehouses within this commonwealth shall deliver any inspected tobacco to any person who shall duly demand the same, by delivery of the notes, or otherwise, for the purpose of manufacturing it, and grant him a manifest therefor, upon his paying the usual duties, and lodging with the inspector a certificate from the clerk of some county or corporation court of his having obtained a licence to stem or manufacture tobacco in the manner prescribed by this act.

Exception.

IX. NOTHING herein contained shall be so construed as to prevent planters or farmers in country places from stemming or manufacturing tobacco the produce of their own farms or plantations; nor shall this act extend to any county westward of the blue ridge, nor to any county in which there is no inspection of tobacco.

Enacting clause.

X. THIS act shall commence and be in force, from and after the last day of February next.

CHAP. CCLXXIX.

An Act, for Paying the Expenses of removing Criminals from the District Jails to the Penitentiary House, and for other Purposes.

[Passed the 21st of January, 1801.]

Manner of conveying criminals to the Penitentiary prescribed, and sheriffs authorised to impress.

I. **B**E it enacted by the General Assembly, That whensoever any person, or persons, shall be sentenced by a district court to undergo confinement in the jail and Penitentiary House, it shall be lawful for a judge of such court, or any two justices of the peace, of the county wherein the said court was held, by warrant under his or their hands and seals, to empower the sheriff charged with the conveyance of such prisoner, or prisoners, in all counties and places through which he shall pass with him or them, to impress, upon the best terms that the nature of the case will admit of, such and so many men, horses, and boats, as shall be necessary for the safe conveyance of the said prisoner, or prisoners, to the said jail and Penitentiary House; which warrant the sheriff is hereby required to execute, and to his commands in virtue thereof, all persons are to pay due obedience.

Sheriffs and guards exempted from arrest.

II. THE sheriff and guard attending any prisoner, or prisoners, by virtue of a warrant, as aforesaid, shall be privileged from arrests in all cases, except treason, felony, and breaches of the peace, during the time that they are employed in conveying such prisoner, or prisoners, to the said jail and Penitentiary House, and in returning therefrom, allowing one day for every twenty miles from their places of abode; and shall be authorised to have and receive each one dollar and four cents for every day they shall be so employed, and four cents per mile for travelling to the said jail and Penitentiary, and the same for returning, besides ferriages; and such sheriff shall also be allowed all necessary expenses incurred by him, as well for horses and boats impressed for the purposes aforesaid, as for the support of the prisoner, or prisoners, during the time of their removal.

Travelling expenses.

III. IN case any horse, or horses, should be impressed by a sheriff, either for himself, or any of the guard, all charges, on account thereof, shall be deducted out of the pay of the person using such horse, or horses, and the auditor of public accounts is required to issue his warrants on the treasurer for any money allowed by this act.

Proviso.

IV. *PROVIDED* however, That before the sheriff, attending any prisoner, shall be entitled to a warrant or warrants, under this act, he shall produce to the said auditor a receipt from the keeper of the said jail and Penitentiary, for the prisoner, or prisoners, which he was required to convey, and make oath, that the number of men, boats, and horses, impressed by him, in removing such prisoner, or prisoners, and other expenses thereby incurred, were in his opinion absolutely necessary. And any person impressed as a guard, by virtue of this act, before he shall receive a warrant for the sum to which he is entitled, shall make oath as to the number of days he was employed, the distance he travelled, and the ferriages paid, or to be paid by him.

V. THE keeper of the said jail and Penitentiary, when he shall see cause, may request the aid of the attending physician to any prisoner confined therein, the charges whereof, as well as for medicines for such prisoner, and the expenses of supporting him or her, during his or her confinement, shall be paid out of the treasury, by order of the Executive: which expenses, as well as all others incurred for beds, bunks, blankets, sheets, coal for the manufactories, repairs of tools, and salary of the instructor, shall be charged to the convicts, in such proportions as to the inspectors shall seem just. And when any prisoner shall hereafter be sentenced, by a district court, to undergo confinement in the jail and Penitentiary House, such prisoner shall be conveyed thereto by such sheriff, as the said court shall think proper to direct: and in case of death, or inability to act, by such other sheriff as shall be appointed by any two justices of the peace, by warrant under their hands and seals, all expenses attending the apprehension, confinement, examination, and trial of such prisoner; as also of removing him, or her, to the Penitentiary House, shall be charged to such prisoner; and that the whole of such expenses may be fully ascertained, the clerks of the county and district courts shall, within thirty days after the conviction of such prisoner, make and certify as accurately as they can, to the clerk of the said jail, and Penitentiary, a statement of the expenses attending the examination and trial of such prisoner, in the said courts. And the auditor of public accounts is hereby also required within thirty days after the receipt for any prisoner, or prisoners, produced to him as aforesaid, to make a like statement of the expenses attending his, or their, removal from the district jail; and if there be more than one prisoner delivered by the same sheriff, to apportion the expenses among them, and certify to the clerk of the said Penitentiary, the expense incurred in removing every such prisoner. And if any person entitled to compensation on account of the removal of any criminal from a district jail, shall fail to apply for a warrant for the same, before the auditor shall have given his certificate, as aforesaid, no warrant shall afterwards be granted therefor.

Physician to be employed.

Charges on the prisoners.

Duty of the clerks of county courts.

VI. OF all expenses by this act directed to be charged to the convicts, a regular account shall be kept by the clerk of the said jail and Penitentiary House; which expenses shall be deducted and paid out of the profits arising from the labour of such convicts during their confinement therein, in the same manner that other expenses of criminals, confined in the said Penitentiary, are now directed to be deducted and paid.

Clerk of the Penitentiary to keep regular accounts.

VII. THIS act shall commence and be in force, from and after the first day of March next.

Enacting clause.

CHAP. CCLXXX.

An Act to prevent the Executive from remitting Fines or Amercements.

[Passed the 23d of January, 1801.]

I. **B**E it enacted and declared by the General Assembly, That in future it shall not be lawful for the Executive of this commonwealth to remit, mitigate, or moderate, any fine, or amercement, assessed or imposed, by any court of record, court martial or other power, or authority, authorised to assess or impose such fine, or amercement, unless by law the Executive be expressly authorised to remit, or act upon the same.

Fines not to be remitted by the Executive.

II. THIS act shall commence and be in force, from and after the passing hereof.

Enacting clause.

CHAP. CCLXXXI.

An Act to amend the act, intituled, "An act directing what Prisoners shall be let to Bail."

[Passed the 23d of January, 1801.]

I. **B**E it enacted by the General Assembly, That no person shall hereafter be bailable for any offence, which, on the twenty-fifth day of March, in the year eighteen hundred, was punishable in life, or limb: but if only a light suspicion of guilt fall on the party, he shall in like manner be bailable.

Bail not allowed, in any case not bailable, &c.

II. ALL acts, and parts of acts, coming within the purview of this act, shall be, and are hereby repealed.

III. THIS act shall be in force from the passing thereof.

Enacting clause.

CHAP. CCLXXXII.

An Act to Explain in Part, an act, intituled, "An act to impose certain Taxes on Law Procefs, and for other Purposes."

[Passed the 23d of January, 1801.]

Preamble.

WHEREAS doubts have arisen, what taxes are now imposed on appeals from the inferior courts to the high court of chancery, and district courts; and by whom the said taxes are to be collected, under the act, intituled, "An act to impose certain Taxes on Law Procefs, and for other purposes."

Tax on appeals.

I. *BE it therefore enacted by the General Assembly,* That in lieu of the taxes now imposed by law on such appeals, the following taxes shall be paid, to wit; on each appeal, granted by a county or corporation court, to the high court of chancery, two dollars; and on every such appeal to a district court, one dollar; which taxes shall be paid to the clerks of the respective county, or corporation courts, in open court, at the time of praying the appeal, and shall be accounted for by the said clerks, in like manner, as other taxes received by them under the act aforesaid.

To be accounted for by clerks.

Repealing clause.

II. ALL acts coming within the purview of this act are hereby repealed.

Enacting clause.

III. THIS act shall commence from and after the passing thereof.

CHAP. CCLXXXIII.

An Act to amend the act, intituled, "An act to reduce into one the several acts, concerning slaves, free negroes and mulattoes."

[Passed the 21st of January, 1801.]

Slaves not permitted to hire themselves out.

I. **B**E it enacted by the General Assembly, That if any person shall permit his or her slave, or any slave hired by him or her, to go at large or hire himself, or herself out, it shall be lawful for any person, and it shall moreover be the duty of every sheriff, deputy sheriff, coroner and serjeant of a corporation to apprehend, and carry such slave before a magistrate of the county or corporation where apprehended, and if it shall appear to the magistrate that such slave comes within the purview of this act, he shall order him or her to the jail of the county or corporation, there to be safely kept until the next court, when, if it shall appear to the court that the slave so ordered to jail hath been permitted or suffered to hire him or herself out, contrary to the meaning of this act, it shall be lawful for said court, and they are required to order the sheriff or other officer, to sell every such slave for ready money, at the next court, held for the said county or corporation, notice being given at the courthouse door, at least twenty days before such sale. *Provided always,* that no sale pursuant to this act shall convey a greater interest in such slave than the person himself, or herself had, who commits a breach of this law, unless it shall appear to the court that the owner of such slave was privy to, or connived at such breach.

Duty of magistrates.

Slaves hiring themselves out, how to be sold.

Penalty on trustees, guardians, executors, &c. permitting slaves to hire themselves out.

II. ANY person who shall suffer a slave held by him or her as trustee, guardian, executor or executrix, administrator or administratrix, to hire himself or herself out contrary to the meaning of this act, shall forfeit and pay forty dollars for each and every such offence, to be recovered by any person who will sue for the same by action of debt or information in any court of record within this commonwealth.

Money arising from the sale of slaves, how to be applied.

III. ONE third of the amount of the sale of every such slave shall be applied by the court ordering such sale, towards lessening the county or corporation levy, and the residue shall be paid by the sheriff or other officer after deducting six per centum on the whole amount for his trouble, and the jailor's fees, to the person who shall inform thereof, and cause the fact to be established, and where there shall be no informer, then the whole proceeds of the sale, after deducting the commissions of the sheriff or other officer and the jailor's fees as aforesaid, shall be applied towards lessening the county or corporation levy.

Slaves admitted as witnesses against free negroes or mulattoes.

IV. ANY negro or mulatto bond or free shall be a good witness in pleas of the commonwealth for or against negroes or mulattoes, bond or free, or in civil pleas where free negroes or mulattoes shall alone be parties; and whereas experience has evinced that the fourth section of the act intituled, "An act to prevent the migration of free negroes and mulattoes into this commonwealth," is defective, for remedy whereof, *Be it enacted,* That if any slave shall hereafter

Duty of magistrates,

be brought or come into this state from any place without the limits of the same, it shall be the duty of any magistrate of the county or corporation where such slave shall be found, upon information to him given to cause such slave to be immediately apprehended and brought before him, or some other magistrate of the county or corporation, who, upon satisfactory evidence had, shall commit such slave to the jail of his county or corporation. And the magistrate so committing shall forthwith give notice to the governor of his proceedings, who with the advice of council shall take such steps for the removal and transportation out of this commonwealth, of the slave or slaves so committed, at the public expense, as they in their discretion may think proper. And the expenses so incurred shall be paid by the person importing or holding such slave so removed; and shall be recoverable against every such person as aforesaid, his or her executors and administrators in the name of the governor of the commonwealth for the time being, by motion, or suit, in which every such person may be held to bail, in any court of record in this commonwealth: *Provided*, ten days previous notice be given of such motion to the persons to be affected thereby: *Provided also*, that the governor shall have power to order such slave to be sold and transported without the limits of this commonwealth, if the person holding or importing said slave be unable to reimburse the commonwealth the expense of commitment, removal and transportation: *Provided also*, that nothing herein contained shall be construed to repeal the fourth section of the act, intituled, "An act to reduce into one the several acts concerning slaves, 'free negroes and mulattoes.'"

where slaves are brought or come into this state.

Executive to remove or transport such slaves at public expense.

The commonwealth to be reimbursed by the importer or holder of such slave.

V. *BE it further enacted*, That it shall be the duty of every commissioner of the revenue, annually, to return to the court of his county or corporation, at the time he returns a list of taxable property, a complete list of all free negroes or mulattoes within his district, together with their names, sex, places of abode, and particular trades, occupation or calling, a copy of which list shall be filed by the clerk of the said county or corporation, at the courthouse door, and the original be deposited for safe keeping in his office, every commissioner of the revenue or clerk of a court failing in said duty shall forfeit and pay the sum of twenty dollars, to be recovered by motion or information, one half to the use of the county or corporation, and the residue to any person who shall sue for the same.

Commissioners of the revenue, annually to return a list of all free negroes and mulattoes within his district.

Penalty on commissioners or clerks failing in their duty.

VI. If any negro or mulatto so registered, shall remove into another county, it shall and may be lawful for any magistrate of the county or corporation in which he or she may intrude, to issue a warrant to apprehend said free negro or mulatto; and if upon examination it be found that he or she has no honest employment by which to maintain him or herself, such free negro or mulatto shall be deemed and treated as a vagrant.

Free negro or mulatto registered, how to be treated, removing into another county or corporation.

VII. ALL the courts of law within this commonwealth shall constantly give this act in charge to the grand juries of their courts, at the times when such grand juries shall be sworn.

VIII. ALL acts and parts contrary to this act, shall be, and the same are hereby repealed.

Repealing clause.

IX. THIS act shall commence in force, from the first day of June next.

Enacting clause.

CHAP. CCLXXXIV.

An Act in addition to the act, intituled "An act, to amend the Penal Laws of this Commonwealth."

[Passed the 21st of January, 1801.]

I. *BE it enacted by the General Assembly*, That any person who shall hereafter, of his own free will and accord, or by the persuasion of, or combination with any foreign agent, or any other person, being an alien, or a citizen of this commonwealth, or of any other of the United States, deliver up or surrender, or cause to be delivered up or surrendered, either by his own authority, or under colour of any office whatsoever, held, or claimed to be held, under the authority of this commonwealth, any citizen of this commonwealth, or of any other of the United States, or any other free person whomsoever, being within the limits of this commonwealth, and entitled to the protection of the laws thereof, during his residence therein, to be transported beyond sea, or elsewhere, without the United States, shall on conviction of every such offence, be adjudged a felon, and sentenced by the court before whom

Penalty on persons delivering or surrendering citizens or other persons to be transported, &c.

such conviction shall be had, to undergo a confinement in the jail and penitentiary house, for a term not exceeding ten years, nor less than one year, and during such term, be compelled to perform such labour, and be subjected to such rules and regulations, in other respects, as is prescribed by law in the case of other felons condemned to serve in said house.

A person delivering or surrendering another who shall be executed, to be deemed a felon.

II. *AND be it further enacted*, That in case any person so delivered up or surrendered as aforesaid, shall be transported by sea or land, to any place without the jurisdiction of the courts of this commonwealth, or of any other of the United States, and at such place shall be tried and condemned by any court, either civil or military, for any criminal offence pretended to have been committed by such person at any place whatsoever, and, in consequence of such condemnation, shall be actually executed under the authority of the court passing sentence upon him, then all and every person or persons concerned in such delivery and surrender shall, on conviction thereof, and due proof made of such condemnation and execution as aforesaid, be adjudged a felon, and suffer death in like manner as aiders, abettors and counsellors of murder in the first degree are directed to be punished in and by the fourteenth section of the act, intituled, "An act to amend the penal laws of this commonwealth."

III. *AND be it further enacted*, That all the duties required by the said recited act to be performed by the court of the city of Richmond, shall hereafter be performed by the governor with the advice of council, any thing in the said recited act to the contrary notwithstanding.

Enacting clause.

IV THIS act shall commence and be in force from the passing thereof.

1801.

General Assembly, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 7th Day of *December*, in the Year of our Lord, 1801.

CHAP. CCLXXXV.

An Act laying Taxes for the Support of Government.

[Passed the 25th of January, 1802.]

Taxes on lands, slaves and other property.

I. **B**E it enacted by the General Assembly, That the public taxes for the year one thousand eight hundred and one, shall be as follows, to wit: On lands for every hundred dollars value, agreeably to the equalizing law, forty-eight cents; for every slave above the age of twelve years, except such as have been, or shall be exempted, by reason of age or infirmity by the respective county or corporation courts, forty-four cents; for every stud horse and jack-ass, twice the price at which such horse or ass covers a mare for the season; for all other horses, mules, mares and colts, twelve cents each; for every ordinary license, twelve dollars and fifty cents; for every four wheeled riding carriage, except phaetons and stage-waggon, one dollar and twenty-five cents per wheel; for all phaetons and stage-waggon, eighty-four cents per wheel; and for every other riding carriage with two wheels, forty-three cents per wheel; for all lots and houses in town, one dollar and fifty-six cents, on every hundred dollars of the rent thereof, to be ascertained by the rent paid by the tenant, and where such house or lot is in the occupation of the proprietor, the yearly rent or value thereof shall be ascertained by the commissioners of the revenue, or either of them, by a comparison of its value with other houses or lots actually rented: *Provided*, That the owner or proprietor of any such house or lot, if he thinks himself aggrieved by such valuation, may appeal to the court by whom the commissioners were appointed, whose judgment as to the yearly rent or value, shall be final. The said commissioners or either of them to ascertain the rent paid on houses or lots actually leased, may call on the tenant or proprietor to declare, on oath or solemn affirmation, what is the amount of the rent paid for the same; and every person so called on, and refusing to declare, shall forfeit and pay the sum of three hundred dollars, to be recovered by motion, on ten days previous notice, to be made by the commissioners of the revenue or either of them: *Provided*, that no taxes shall be collected on lands, lots, houses or other property belonging to this commonwealth, or to any county, town, college, houses for divine worship, or seminary of learning; every covering horse or jack-ass which shall not be duly entered with the commissioners of the tax, and all such horses and asses brought into this commonwealth, subsequent to

the ninth of March next, shall be liable to a treble tax, to be paid by the owner of the place at which he shall stand, upon whom it shall be distrainable by the sheriff, as if it had been entered in the commissioner's book: for two-thirds whereof the sheriff shall be accountable to the public, and in case of failure to pay the same, shall forfeit two hundred dollars, to be recovered with costs, on motion, after ten days notice by the auditor, for the use of the commonwealth: *Provided*, that any person so bringing such horse or ass into the state, entering him with the commissioner within ten days thereafter, and paying the tax to which he would have been liable had he been duly entered, to the sheriff or collector, shall be absolved from the said penalty, and the said commissioners shall subjoin the said horse or ass to the list of taxables.

II. *AND be it further enacted*, That upon any person's producing to the commissioner of the revenue for the county, district, or corporation, or to the clerk of the court, if there be no commissioner, a receipt for the sum of forty dollars paid to the sheriff or collector, such commissioner shall grant to such person, a license to sell merchandize of foreign growth or manufacture by wholesale and retail, for and during the term of twelve months; or if the said receipt shall be for fifteen dollars, such person shall in like manner receive a license to retail such goods for the same time. And if any person shall sell such merchandize either by wholesale or retail, on land, or on board any vessel, without having obtained such license, such person shall forfeit and pay five hundred dollars, to be recovered by the commissioner in any court of record, on ten days previous notice; and to be paid to the sheriff for the use of the commonwealth; of which licenses and fines, the commissioners shall annually in their books, return a list to the auditor of public accounts, on or before the fifteenth day of September, specifying names, which shall be good evidence whereupon to charge the sheriff or collector: *Provided always*, That if there be no sheriff or collector, the clerk of the court shall have a right to receive the tax, to be accounted for in like manner as other taxes by him received, which receipt being produced to the commissioner of the revenue, such commissioner shall grant to such person a license to sell in the same manner as if the money had been paid to a sheriff or collector: *Provided nevertheless*, That not above one tax shall be paid on account of so selling at one and the same store; and if any person shall possess two or more stores, he or she shall pay one tax for each store; *And provided also*, that nothing contained in this, or any other act, shall be so construed as to impose a tax on planters or farmers for* selling salt, iron, or steel, to their neighbours, purchased as a return load for their produce carried in their† waggons, or otherwise, to market. All the said licenses shall be taken out previous to the first day of May next, and shall be good and effectual for and during the term of one year. *Provided*, That if any new store shall be opened on land, between the first day of May, and the same day in the following year, the said tax shall be apportioned according to the time then to come of one year; and its amount shall be specified in the license, and in the commissioner's return.

On licenses to sell merchandize.

Only one tax to be paid for selling at one store.

No tax to be received for selling salt, &c. in certain cases.

III. *AND be it further enacted*, That the act concerning Hawkers and Pedlars, shall be so construed as to make it necessary for each hawker and pedlar to obtain a license, that it shall be the duty of the commissioners to report to the courts of their respective counties, such merchants, hawkers and pedlars as neglect to comply with this act; and on such report, it shall be the duty of the said court to direct process against all delinquents so reported.

Hawkers and pedlars to obtain licenses. Proceedings against them for failing to do so.

IV. *BE it further enacted*, That each hawker and pedlar, after obtaining a license to sell goods, wares and merchandize, shall in the court of each county, in which he offers goods for sale, enter of record his license obtained for vending goods, wares and merchandize, for which he shall pay twenty-five cents to the clerk, and in case of failure, each hawker and pedlar shall be subject to the same penalty as if he had no such license. The clerk of each court shall on each court day throughout the year, cause a list of such licenses as are recorded by him to be stuck up in some public place in the courthouse, expressing when each license was granted, when it will expire, and by what court it was granted, and in case of failure, such clerk for each omission shall forfeit and pay the sum of fifty dollars, to be recovered by motion of the commissioners, in any court of record, ten days notice thereof being first given. For every license granted by a commissioner under this act, he shall be entitled to twenty-five cents, which shall be paid to him out of the public treasury, on warrant of the audi-

Licenses of hawkers and pedlars to be recorded.

Duty of clerks relative to such licenses.

* from in the roll. † the in the roll.

Clerks of courts to return an account annually of taxes received by them.

Sheriffs and others to have notice of motion.

Duty of commissioners.

Commencement of this Act.

tor of public accounts, after his list of licenses shall be returned to the auditor as aforesaid. Clerks of courts shall annually on or before the first day of October, return to the auditor a list of all hawkers and pedlars' licenses granted by their respective courts, previous to the first day of September in every year, and every clerk neglecting this duty shall forfeit fifty dollars, to be recovered in the general court, by motion, on ten days previous notice. The clerks of courts shall also, on or before the fifteenth day of December in every year, account on oath to the auditor of public accounts, for all taxes received by them, by virtue of their offices, previous to the first day of September in such year. So much of the act passed at the session of Assembly which commenced in December, one thousand seven hundred and ninety-eight, intituled, "An act to impose certain taxes on law process, and for other purposes," as is contrary hereto, shall be and is hereby repealed.

V. AND for the more effectual collection of the taxes as aforesaid, and others which may become due to the commonwealth, *Be it further enacted*, That ten days previous notice shall hereafter be necessary to any sheriff, collector, clerk, inspector, or notary public for the purpose of recovering a judgment for any taxes, fines, or public dues of any kind where by law the auditor is authorised to proceed against them, or any of them, by motion. No sheriff or collector shall at any time be allowed to return any list of insolvents, or have any credit therefor after twelve months shall have expired from the period of the taxes becoming payable by such sheriff or collector, to which such list relates. A commission of five per cent. and no more shall be allowed the sheriffs and collectors for the collection of taxes on licenses to be granted to merchants under this act, and on license to* be granted to hawkers and pedlars, under an act intituled "An act concerning hawkers and pedlars," any law to the contrary notwithstanding.

VI. A LIST of all licenses granted to merchants shall be returned by the commissioner granting the same to the county or corporation courts for their examination, after which the said lists shall be delivered to the said sheriffs or collectors, who shall annually on or before the first day of October next, after the receipt thereof, account for and pay the same into the public treasury.

VI. THIS act shall commence and be in force from and after the passing thereof.

CHAP. CCLXXXVI.

An Act to appropriate the Public Revenue.

[Passed the 1st of February, 1802.]

Taxes to constitute a general fund.

Appropriation thereof.

I. **B**E it enacted by the General Assembly, That all taxes, and arrearages of taxes, except arrearages of taxes due prior to the year eighteen hundred, and all other branches of revenue, which shall arise to the commonwealth, prior to the first day of January eighteen hundred and three, shall constitute a general fund, and be appropriated in the following manner, to wit: To the payment of all unsatisfied warrants charged on the said taxes by the act of the last session of Assembly appropriating the public revenue; to the payment of forty thousand dollars for the expenses of the General Assembly, at their next session; sixty-one thousand dollars to the officers of civil government; four thousand five hundred dollars to the officers of militia; twelve thousand five hundred dollars, the expenses of examining and trying criminals in the county and district courts; six thousand dollars for slaves that may be executed; two thousand dollars for slaves that may be transported; four thousand dollars for expenses of guards over criminals in the county and district jails; five thousand dollars for the lunatic hospital; thirteen thousand five hundred dollars to the commissioners of the revenue; four thousand five hundred dollars to pensioners; one thousand dollars to the Upper Appamattox canal company; two thousand dollars for the Dismal Swamp canal company; fourteen thousand dollars to the guard to be kept at Richmond; twenty-one thousand dollars for completing the arsenal and manufactory of arms; forty-six thousand dollars artificers' pay, and for materials, including tools for carrying on the said manufactory; two thousand five hundred dollars for removing criminals from the district jails to the penitentiary house; four thousand dollars for charges on account of criminals confined in the penitentiary-house; twenty thousand dol-

* so in the roll.

lars for completing the penitentiary buildings; seven thousand five hundred dollars for charges on account of public warehouses; one thousand seven hundred dollars for public services of clerks of district courts; twenty-eight thousand two hundred and thirty dollars for interest on paper money funded, interest on military certificates, and interest on loans, including interest on money paid into the treasury for British debts; sixty-three thousand seven hundred and seventy-three dollars for the purchase of arms under contracts heretofore entered into by the Executive; one thousand dollars for collecting and preserving the public ordnance; twenty thousand dollars for the payment of all sums directed to be paid by the present General Assembly, for which no provision has been made; and twelve thousand dollars for contingent expenses, not including therein, such as may be incurred for repelling invasions or suppressing insurrections, and such other cases as may result from necessity.

II. *AND be it further enacted*, That all certificates issued by the treasurer or by the auditor of public accounts to individuals for debts due to them by the commonwealth, shall be receivable by the sheriffs or collectors in the collection of all arrearages of taxes due prior to the year one thousand seven hundred and ninety-eight; and the said certificates shall be received by the treasurer from the sheriffs or collectors in discharge of the aforesaid arrearages of taxes; lists of licenses granted to merchants and to hawkers and pedlars, and directed to be returned to the auditor's office, on or before the first day of October in every year, shall be made up to the first day of September in the same year, and the dates of the said licenses as well as the names of the persons to whom they have been issued, shall be specified in the said lists.

III. ALL acts, and parts of acts, coming within the purview of this act, shall be and the same are hereby repealed.

IV. THIS act shall commence and be in force, from and after the passing thereof.

Certificates receivable for arrears of certain taxes,

Lists of licenses to merchants, &c. how to be made up.

Repealing clause.

Commencement of this act.

CHAP. CCLXXXVII.

An Act to amend and reduce into one act the several acts concerning Pilots, and regulating their Fees.

[Passed the 23d of January, 1802.]

WHEREAS great inconvenience is experienced from the multiplicity of laws on the subject of pilots, which will be better understood and observed, if amended, and brought into one view:

Preamble.

I. *BE it therefore enacted by the General Assembly*, That Paul Loyal, and Robert Barron of Norfolk, William Tea, and William Pritchett of Portsmouth, and Edward Cooper, James Latimer, James Cunningham, Francis Ballard, John Parish, James Wood, and William Banks, be, and they are hereby appointed examiners, any three of whom may examine and admit as pilots those who are qualified according to the regulations herein after expressed.

Examiners appointed,

II. EVERY examiner now, or hereafter to be, appointed, shall before he enters on the duties of his office, take an oath before the court of the county where he resides, that he will faithfully and impartially, execute the duties by this act enjoined.

To take an oath.

III. WHENEVER a vacancy shall happen by the death or resignation of any examiner, the court of the county or corporation where the examiner so dying or resigning resided, shall and may appoint some proper and discreet person to fill such vacancy; *Provided* a majority of acting magistrates are present when such appointment is made.

Vacancies in examiners how filled.

IV. EVERY person applying to be examined, shall produce a certificate from the court of the county or corporation where he resides, of his honesty and good demeanor, and that he is a citizen of this commonwealth; and moreover, shall produce satisfactory proof to the examiners, of his having served as an apprentice to some branch-pilot in this state, for the term of five years. If, upon such examination, such person be found properly qualified to act as a pilot, the examiners or any three, shall grant him a branch, upon his paying down to them five dollars, and entering into bond with such security as the board of examiners shall approve, in the penalty of five hundred dollars, payable to the governor for the time being and his successors, with a condition for the faithful performance of the duties required by this act; which bond shall be

Persons applying to be examined to produce certain certificates, &c.

Branches to be given to those qualified, Fee therefor.

Bond, &c. to be given on obtaining a branch.

lodged in the clerk's office of the county or corporation where it may be executed, and may be sued at the instance of any person injured by a breach of the conditions thereof.

Pilots to be arranged into classes.

V. ALL pilots within this commonwealth shall be arranged into three classes, and distinguished by the numbers—first class—second class—third class: And, in every branch to be granted under the authority of this act, the examiners who grant, shall distinguish to which class the pilot obtaining a branch shall belong.

To take charge of vessels according to their classes.

VI. THE pilots belonging to the first class, shall alone have power to pilot and conduct vessels of every burthen and description; those belonging to the second class shall be confined to conducting and piloting such vessels whose draught of water shall not exceed twelve feet; and the third rate pilots shall be confined to the piloting vessels whose draught of water shall not exceed nine feet.

Removal out of state a disqualification.

VII. EVERY person removing out of this commonwealth, after having obtained a branch as aforesaid, shall be incapable to act as a pilot, and his removal shall be considered as vacating his branch; and such person acting thereafter as a pilot, shall be subject to the like penalties as those are subject to by this law, for acting as pilots without having a proper boat, or without obtaining a branch.

Pilots to keep sufficient boats.

VIII. NO person shall undertake the business of a pilot, although he may have received a branch as aforesaid, unless he or the company to which he belongs, shall keep one sufficient boat, of eighteen feet keel at least, under the penalty of one hundred and fifty dollars, which may be recovered, in any court of record in this commonwealth, by any person who will sue for the same, by action of debt, in which he or they may be held to bail: And if any person, without having and obtaining a branch as aforesaid, shall undertake to conduct any vessel from sea, to and from the places herein after mentioned, he shall incur the penalty of thirty dollars, to be recovered in like manner: And moreover, every such person shall be liable for all damages occasioned by his piloting, which may be recovered by action, in any court of record in this commonwealth, by any person injured: *Provided*, That this act shall not extend to prevent any person from assisting a vessel in distress, so as he or they deliver up such vessel to the pilot, who shall offer to undertake the conducting of her, for which such assistant shall and may demand and receive from the said pilot, half the fees allowed for pilotage by this act.

Penalty on persons for piloting without authority.

Proviso as to vessels in distress.

Not more than four pilots to be in partnership.

IX. NO more than four pilots shall be in partnership under the penalty of one hundred dollars each; to be recovered with costs, by any person suing for the same.

Pilot boats to be marked.

X. EVERY pilot boat shall have her name, and the port to which she belongs, marked ten feet below the head of her foremast, on each side thereof in letters of at least nine inches in length; otherwise the owner or owners shall not be entitled to the fees allowed by this act.

Apprentices allowed to pilot in certain cases.

XI. IF any branch pilot shall have an apprentice, who shall be adjudged by a board of examiners, qualified to conduct and pilot a vessel, such apprentice may, upon receiving a copy of his master's branch, with the name of the pilot boat, and the port to which she belongs, endorsed thereon by a board of examiners, (who shall also endorse the class to which the said master belongs) take charge of, and conduct any vessel rated according to his class: And no branch pilot shall be at liberty to take from such apprentice any vessel which he may have in charge.

Rules for pilots.

XII. *AND be it further enacted*, That it shall be lawful for any pilot belonging to this commonwealth, who first meets a vessel coming from sea, to take charge of and conduct her into Hampton road, York river, or Mob-jack bay, and to receive the fees allowed by law for piloting vessels to the aforesaid places; from whence any pilot having a branch which will authorize him to conduct her to the port to which she is destined, may and shall take charge of such vessel.

Penalty on pilots for losing vessels.

XIII. IF any pilot or his apprentice, who may be authorized as this act requires, shall negligently or by misconduct, lose any vessel in his charge, and such negligence or misconduct be satisfactorily proved before the examiners, such pilot shall be suspended for a time not exceeding six months; and moreover shall be liable to the party injured, for all damages occasioned by such negligence or misconduct.

Deed of pilot master.

XIV. THE pilot who first meets a vessel coming into this commonwealth,

shall enquire into the health of her crew, and the place from which she last came; and if she came from any place from whence vessels coming are required to perform quarantine, he shall immediately direct her to follow his vessel, strictly attending to her, and conducting her to the nearest place for vessels to perform quarantine; and such pilot shall, as soon after as possible, give notice to the superintendant of quarantine at the port nearest such place, if there be one, of the arrival of such vessel; for which extra trouble the pilot shall be allowed seven dollars, to be paid by the master or owner of such vessel; and if any pilot conducting such vessel, shall fail to give notice to the superintendant as aforesaid, he shall, upon complaint and due proof of such failure, be suspended by the examiners for a term not exceeding two months; and if any pilot shall be decoyed on board any vessel in which there is a contagious disease, and be thereby obliged to remain on board, and perform quarantine, such pilot shall be allowed and paid by the master or owner thereof, three dollars for every day he shall be so detained. And, to the end that all pilots may be properly informed, when vessels coming into this state from any place shall be bound to perform quarantine, the governor of this commonwealth for the time being, is hereby required, whenever he shall issue a proclamation to that effect, to transmit to the superintendant of quarantine, so many copies thereof as he may think proper; and the superintendant shall forthwith cause to be delivered to each pilot a copy of such proclamation.

ing vessels.
Penalty for neglect.

Allowance to pilots decoyed on board vessels in certain cases.

Duty of governor in issuing proclamations relative to quarantine.

XV. *AND be it further enacted*, That the rates of pilotage on American vessels shall hereafter be as follows, to wit: From sea to Hampton road twelve dollars, and from Hampton road to sea seven dollars and fifty cents, and for each foot of depth of water the vessel draws, from Hampton road or Seawell's point to Norfolk or Portsmouth, eighty-eight cents per foot; to Sleepy hole or Lookout, one dollar and three cents per foot; to Pagan creek eighty-eight cents per foot; to James town one dollar and ninety-four cents per foot; to Martin's Brandon two dollars and twelve cents per foot; to Flower de Hundred two dollars and twenty-five cents per foot; to City-Point or Bermuda Hundred two dollars and eighty-seven cents per foot; to Four mile creek three dollars and forty eight cents per foot; to Osbornes three dollars and eighty-seven cents per foot; to Warwick four dollars and thirty-four cents per foot; to Richmond four dollars and sixty-three cents per foot. On York river, coming from sea to York town twelve dollars; from York town to sea seven dollars and fifty cents; from Back river or Egg island to York town six dollars; from York town to West Point one dollar and thirty-three cents per foot; to Cumberland one dollar and sixty-three cents per foot; to the highest landing on Pamunkey river two dollars and seven cents per foot; to Shepard's one dollar and forty-seven cents per foot; to Meredith's, Moore's, or the highest landing on Mattaponi one dollar and ninety-seven cents per foot; from Cape Henry to any river on Mobjack bay, twelve dollars; and from Mobjack bay to sea seven dollars and fifty cents; from the capes to Urbanna fifteen dollars; and from Urbanna to sea twelve dollars; from Urbanna to Tappahannock one dollar and forty cents per foot; to Naylor's hole one dollar and thirty-eight cents per foot; to Leed's or Micou's two dollars and thirteen cents per foot; to Port Royal two dollars and ninety-seven cents per foot; to Fredericksburg three dollars and seventy cents per foot; from sea to Piankatank fifteen dollars; and from Piankatank to sea twelve dollars.

Rates of pilotage on American vessels.

XVI. *BE it enacted*, That the rates of pilotage from Cape Henry up the Potomack river as high as the Eastern Branch shall be as follows: From the cape to Smith's point on South Potomack coming from sea twenty-five dollars, and for going out twenty dollars and eighty-three cents; from Smith's point to Coan or Yeocomico seventy-four cents per foot; to Machadock eighty-four cents per foot; to upper Machadock one dollar and twelve cents per foot; to Nangomy one dollar and thirty-seven cents per foot; to Boyd's Hole one dollar and forty-seven cents per foot; to Quantico one dollar and fifty-eight cents per foot; to Occoquan one dollar and seventy-eight cents per foot; to Piscataway two dollars and ten cents per foot; to Alexandria two dollars and forty-eight cents per foot; and to the Eastern branch two dollars and sixty-two cents per foot; and the pilots shall and may demand the same rates for each foot back from the aforesaid places.

XVII. THE pilots shall be, and they are hereby entitled to demand and receive from foreign vessels one fourth in addition to the foregoing rates: *Provided*, that coasting vessels shall not be obliged to take a pilot. Every pilot

Additional pilotage on foreign vessels.

Rates for piloting ships
of war.

taking charge of a ship of war shall be entitled to receive in lieu of pilotage allowed by this act, the following prices: For ships of war above fifty guns, from Cape Henry to Hampton road twenty dollars; for ships under fifty and above twenty guns fifteen dollars; from Cape Henry to York town, for ships above fifty guns twenty-four dollars; ships under fifty guns and above twenty guns eighteen dollars; from Cape Henry to any river on Mobjack bay twenty-five dollars; from the cape to Smith's point on South Potomack forty-five dollars, and the same prices back.

Allowance to pilots de-
tained by the vessel's
not being ready.

XVIII. AND when any master of a vessel shall give reasonable notice to the pilot he shall employ, of the time and place such master shall appoint for his attendance, and such pilot shall attend accordingly, he may demand and receive one dollar and seventy-five cents for every day he shall be detained by such master's not being ready to proceed according to his notice.

XIX. AND in all cases hereafter, when a vessel shall be outward bound and anchored in Hampton road, and the master shall detain a pilot, after a fair wind offers for going to sea, such pilot shall be entitled to demand one dollar and seventy-five cents for every day he shall be detained: *Provided*, That the same shall not extend to vessels falling down into Hampton road, and not intending immediately to proceed to sea; in which case the master may discharge the pilot.

Penalty on pilots re-
fusing to do their duty.

XX. AND if any pilot, not being hindered by sickness or other lawful cause, shall refuse when requested by the master of any vessel, to go on board and conduct her, such pilot shall upon complaint and satisfactory evidence before the board of examiners, be suspended for such time as they shall think fit: And if any injury shall arise to the master in consequence of such refusal, such pilot shall be answerable to him for all damages, to be recovered by action in any court of record within this commonwealth.

Allowance to pilots
carried to sea.

XXI. EVERY master of a vessel carrying a pilot to sea, shall pay to such pilot the same wages as the mate of such vessel receives.

To pilots attending
with their boats.

XXII. EVERY pilot who shall attend any vessel with his boat, at the request of the master or owner, shall be allowed and paid, seven dollars per day for such attendance.

Captains or masters of
vessels to receive pilots.

XXIII. EVERY captain or master of a vessel, shall receive a branch pilot, if one offers, to conduct his vessel out to sea from the port of lading.

Regulation as to fees of
pilots.

XXIV. THE fees allowed by this act, for piloting a vessel into this commonwealth, shall only be paid when a pilot has boarded a vessel without the capes of Virginia, or opposite to them; if the vessel be boarded by a pilot within the capes, he shall be entitled to demand only half of the fees before specified into Hampton road.

Pilots to carry with
them a copy of this act.

XXV. THE consignees or super-cargo of any vessel, not owned by a citizen residing in this state, shall be liable for the pilotage, if not paid by the master.

Penalty for demanding
more than legal fees.

XXVI. AND in order that strangers and others may not be imposed on in the rates of pilotage, by this act allowed, *Be it enacted*, That every pilot appointed under the authority of this act, shall be obliged, when in the execution of his duty, to carry with him a copy thereof, and shall produce the same, if demanded by any master or owner of a vessel which he may conduct, before he shall be entitled to receive his pilotage from them, or either of them; and if any pilot shall demand, or receive greater fees for any services rendered, under the authority of this act, than he is allowed, he shall forfeit and pay to such master or owner double the amount by him received, to be recovered by action of debt in any court of record within this commonwealth.

Franches not to be gi-
ven to a negro or mu-
latto.

XXVII. NO negro or mulatto shall, after the passing of this act, obtain a branch as a pilot: *Provided*, however, that this prohibition shall not extend to, or affect, any such person now having a branch.

Examiners to be fur-
nished with copies of
this act.

XXVIII. THE public printer shall furnish the examiners with one hundred copies of this act; one of which copies, signed by three of the said examiners, shall be delivered to each pilot.

Repealing clause.

XXIX. ALL and every act and acts, clauses and parts of acts, coming within the purview of this act, shall be and the same are hereby repealed.

Commencement of this
act.

XXX. THIS act shall commence and be in force, from and after the first day of April next.

CHAP. CCLXXXVIII.

An Act to amend an act, intituled, An act empowering the Governor to transport Slaves condemned when it shall be deemed expedient.

[Passed the 22d of December, 1801.]

I. **B**E it enacted by the General Assembly, That so soon as the Executive shall determine on the sale or transportation of any slave or slaves under the act, intituled, "An act to empower the governor to transport slaves condemned when it shall be deemed expedient," the owner or owners thereof shall be immediately paid in the same manner as for slaves executed. Any law to the contrary notwithstanding.

Owners to be paid for their slaves directed by the Executive to be sold or transported.

II. THIS act shall be in force from and after the passing thereof.

Commencement of this act.

CHAP. CCLXXXIX.

An Act concerning the Glebe Lands and Churches within this Commonwealth.

[Passed the 12th of January, 1802.]

I. **W**HEREAS the General Assembly on the twenty-fourth day of January one thousand seven hundred and ninety-nine, by their act of that date, repealed all the laws relative to the late Protestant Episcopal Church, and declared a true exposition of the principles of the Bill of Rights and Constitution respecting the same, to be contained in the act, intituled "An act for establishing religious freedom," thereby recognizing the principle, that all property formerly belonging to the said church, of every description, devolved on the good people of this commonwealth, on the dissolution of the British government here, in the same degree in which the right and interest of the said church was derived therein from them. And although the General Assembly possesses the right of authorising a sale of all such property indiscriminately, yet being desirous to reconcile all the good people of this commonwealth, it is deemed inexpedient at this time to disturb the possession of the present incumbents:

Preamble.

II. *BE it therefore enacted by the General Assembly,* That the Overseers of the Poor and their successors, or a majority of them within each county of this commonwealth, wherein any glebe land is vacant, or shall become so, by the death or removal of any incumbent, shall have full power and authority, and they or a majority of them are hereby directed, on giving at least thirty days public notice, at the front door of the courthouse of their county, to sell all such lands and appurtenances, and every other species of property incident thereto, on the premises, to the highest bidder, on twelve months credit, taking bond with good security for the amount thereof payable to themselves and their successors; provided that no sale of any such property shall take place, where any person is in possession thereof, under a lease from any person or persons in behalf of the said church, whether called trustees or not, prior to the passing of this act, until the said lease shall expire; and all sums of money or tobacco due thereon, or to become due, shall be recovered by action in the names of the said Overseers of the Poor or their successors, in any court of record within this commonwealth; that the said Overseers of the Poor, or a majority of them conducting every such sale, or their successors, on receiving satisfactory security for the amount thereof, be, and they are hereby authorized and directed, to convey all such property sold by them as aforesaid, to the purchaser or purchasers thereof, by good and sufficient deeds for that purpose; that in all cases where any person or persons may have received any sum or sums of money or tobacco, for the use of the Episcopal church as established under the former government, and shall not have paid the same as directed by law, the said Overseers of the Poor and their successors, or a majority of them, shall be entitled to receive the same, and on non-payment thereof, to recover it by action in any court of record within this commonwealth: That when any person or persons, other than an incumbent or his tenant, shall have had the use of any glebe land or other property incident thereto, and may not regularly have accounted for the profits of the same, they shall hereafter account to the said Overseers of the Poor or a majority of them, of the county in which such property lies, and in case any such person or persons, their executors or administrators refuse to account accordingly, the said Overseers of the Poor or their successors

Overseers of the poor to sell glebe lands in certain cases.

To execute deeds therefor.

To recover debts due for the use of the church.

Incumbent and tenants
restrained from com-
mitting waste in glebe
lands, &c.
and from removing the
personal property.

Overseers of poor to
pay debt due from pa-
rishes.

A glebe lying in more
counties than one, how
to be sold.

Appropriation of the
money.

Compensation to over-
seers of the poor.

This act not to affect
private donations in
certain cases.

Commencement of this
Act.

may sue for and recover the same in any court of record within this commonwealth. That in all cases where such property is in possession of any incumbent or his tenant, either or both of them shall be restrained from the commission of waste, in like manner as other tenants for life or years may be by the said Overseers or their successors, in whom the right of action for that, and the purpose of carrying this act into effect, is hereby vested. That in every case where the Overseers of the Poor or any one or more of them in any county, shall have good reason to believe that the incumbent therein shall be about to remove any or the whole of the personal estate, which he holds as formerly belonging to the Episcopal church, from such county, they or any one or more of them shall upon application to any magistrate therein, obtain from him an attachment, which he is hereby authorised to grant, against the estate so about to be removed, upon the execution of which, and the return thereof being made to the next court of such county, the said court may compel the said incumbent on due proof thereof, to give bond with sufficient security, not to remove the said property or any part thereof, from the premises, and in case of refusal, the said court may order the said property to be delivered to the said Overseers of the Poor and their successors or a majority of them, to be by them disposed of as in other cases: That in all cases where there shall be any just demand unpaid by any parish, the said Overseers of the Poor and their successors, or a majority of them, in every county comprehending such parish or the greater part thereof, shall from any of the funds aforesaid, before they are otherwise applied, pay the same; and shall then be entitled to a credit with the Overseers of the Poor of the county comprehending the residue of such parish, for their proportion thereof: That in cases where a glebe shall be in, or a parish run into, more counties than one, the Overseers as aforesaid of the county wherein the glebe or the greater part thereof shall lie, shall sell the same as aforesaid; and in all cases the said Overseers and their successors, or a majority of them, shall appropriate the money arising therefrom either to the poor of such parish or to any other objects, which a majority of the freeholders and house-keepers therein may direct, by a writing from under their hands directed to the said Overseers: And in all other cases the money arising therefrom as aforesaid, shall be by the said Overseers of the poor or a majority of them in the counties respectively, applied in like manner, unless directed otherwise as aforesaid; *Provided*, That nothing herein contained shall authorise an appropriation to any religious purpose whatsoever. That the said Overseers of the Poor or a majority of them, or their successors, shall meet as often as they may deem it necessary, for the purpose of carrying this act into effect: That the Overseers of the Poor, and their successors in each county where any such property remains, shall perform all the duties required of them respectively by this act, under the penalty of two hundred dollars each, to be recovered in any court of record, by any one who will sue for the same. That the said Overseers and their successors or a majority of them, who shall perform the duties hereby required, shall be entitled to receive for advertising, selling and conveying, any of the said property, a commission of three per cent. and for collecting and appropriating any of the funds by them received, three per cent. more; and shall be accountable to their successors as in other cases. That nothing herein contained shall authorise a sale of the churches and the property therein contained, or the church yards, nor in any manner affect* any private donation made prior to the first day of January, one thousand seven hundred and seventy-seven for church and other purposes, where there is any person in being entitled to take the same under any private donor; nor to affect the property of any kind which may have been acquired by private donations or subscriptions by the said church, since the date last mentioned.

III. THIS act shall commence and be in force from and after the passing thereof.

* effect in the roll.

CHAP. CCXC.

An Act to amend the sixth section of the act for reducing into one the several acts concerning the Land-Office; ascertaining the terms and manner of granting waste and unappropriated land; for settling the titles and bounds of lands, directing the mode of procuring, and prescribing the duty of Surveyors.

[Passed the 15th of January, 1802.]

I. **W**HEREAS it hath been represented to this present General Assembly, that many persons have located, and lay claim in consequence of such location, to the banks, shores, and beds of the rivers and creeks in the western parts of this commonwealth, which were intended and ought to remain as a common, to all the good people thereof:

Preamble.

II. *BE it therefore enacted*, That no grant issued by the register of the land-office for the same, either in consequence of any survey already made, or which may hereafter be made, shall be valid or effectual in law to pass any estate or interest therein.

Grants for beds of rivers, &c, not valid.

III. *THIS* act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CCXCI.

An Act to amend and explain the act concerning Public Roads.

[Passed the 16th of January, 1802.]

I. **W**HEREAS it appears that the power of discontinuing roads ought under certain limitations to be vested in the courts of this commonwealth.

Preamble.

II. *BE it therefore enacted*, That the different county courts shall have power to discontinue any public road, whenever the same shall cease to be a public convenience. Any person intending to apply for the discontinuance of a road, shall give one month's notice in some public paper, and advertise the same at the door of the courthouse of that county through which the road passes. On application to any county court for discontinuing a road, the said court shall direct their sheriff to impanel a jury of twelve disinterested freeholders, who shall view the same, being first sworn, and on their oaths say, whether in their opinion public inconvenience would result from discontinuing the same. The jury shall certify their opinion under their hands, and deliver it sealed to the sheriff, who shall return it to the court, who thereupon, as well as upon other evidence, shall have full power to keep open or discontinue the said road. Nothing in this act shall be construed to authorise any county court to discontinue any public post road, nor to abridge or alter the power they now possess of discontinuing roads, by substituting others in lieu thereof.

County courts may discontinue roads in certain cases.

III. *AND* whereas it appears reasonable that the owners of coal mines, should be placed on the same footing with the owners of mills, warehouses, ferries and iron works, and be equally entitled to the benefit of convenient roads. *Be it further enacted*, that the owners of coal mines shall be entitled to obtain roads for the carriage of their coal, in the mode prescribed by law to the owners of mills, ferries, warehouses and iron works.

Owners of coal mines placed on footing with owners of mills, &c.

IV. *THIS* act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CCXCII.

An Act to prevent the Burning of the Woods.

[Passed the 16th of January, 1802]

I. **W**HEREAS it has been represented to this General Assembly, that great injuries have been sustained by individuals, from the practice of setting the woods on fire within this commonwealth:

Preamble.

II. *FOR* remedy whereof, *Be it enacted*, That if any person or persons shall set the woods on fire, unless by accident, or in any manner be concerned therein, every such person shall pay a fine of thirty dollars for every such offence, to be recovered in any court of record within this commonwealth, by any person who will sue for the same, one half thereof to the use of the informer,

Punishment of persons for setting the woods on fire.

This act not to extend
to certain counties.
Commencement of this
act.

and the other to the use of the county wherein the offence was committed, to be applied towards lessening the levy; And if any such person be an infant under the years of eighteen, the said fine may be recovered in like manner of his parent, guardian, or master; and if any such person be a free negro or mulatto, and unable to pay the said fine, he shall receive thirty lashes by order of any justice of the peace. This act shall not extend to the counties of Nansemond, Southampton and Isle of Wight.

III. THIS act shall commence and be in force, from and after the first day of March next.

CHAP. CCXCIII.

An Act authorizing Flour manufactured in this State, to be carried to the District of Columbia.

[Passed the 18th of January, 1802.]

Lawful to carry flour
without inspection to
the district of Colum-
bia.

Commencement of this
act.

I. **BE** it enacted by the General Assembly, That it shall and may be lawful for any person or persons to send or carry by land or upon the waters of the Potowmac, to the District of Columbia, without being inspected, any flour made or manufactured within this commonwealth. Any law to the contrary notwithstanding.

II. THIS act shall be in force, from the passing thereof.

CHAP. CCXCIV.

An Act to amend an act intitled, an act, reducing into one the several acts making provision for the restraint, support and maintenance of Ideots and Lunatics, and the preservation and management of their estates.

[Passed the 18th of January, 1802.]

Committees to account
with auditor for ex-
penses of lunatics.

Clerks of courts to send
auditor copies of bonds
of committees, &c.

Court of directors to
certify to auditor an
account of lunatics' ex-
penses, &c.

Proceedings against
committee for neglect
of duty.

Repealing clause.

I. **BE** it enacted by the General Assembly, That the committee of the estate of an ideot or lunatic removed to the hospital in the city of Williamsburg, shall account with the Auditor of Public Accounts and pay into the Treasury, as well what he may be liable to pay for the expenses attending the removal of such ideot or lunatic, as for his or her annual support while in the hospital; and the bond of such committee shall in all future cases be so changed as to make him account and pay as aforesaid, and the said committee shall account for and pay the said expenses of removal and the first year's support of such ideot or lunatic, within twelve months after the date of his bond, and the allowance for his or her annual support on or before the same day in each year thereafter, so long as the said ideot or lunatic shall remain in the hospital.

II. *BE it further enacted*, That the clerk of the court by whom the committee shall be appointed to an ideot or lunatic so removed as aforesaid, within six months thereafter, shall transmit to the Auditor, a certified copy of the bond of such committee, and also of the order of such court relative to said ideot or lunatic, and his estate; and the court of directors shall, whenever an ideot or lunatic shall be received into such hospital, certify to the Auditor an account of the expenses attending his or her removal, and also the sum allowed for his or her annual support, and when any such ideot or lunatic shall be discharged, the court of directors shall certify the same to the Auditor of public accounts, which copy of the bond of a committee with the order of the court aforesaid, and the certificate of the court of directors may be given, and shall be received, as evidence against any such committee on a motion made against him under this act; and if any such committee shall fail to account and pay into the Treasury as aforesaid, the expenses attending such removal and the allowance for the annual support of such ideot or lunatic so long as he or she shall remain in the said hospital, then and in that case the Auditor shall be, and he is hereby authorized and required, forthwith to recover of such committee by motion in the General court, the sum due on account of such ideot or lunatic: *Provided always*, that twenty days previous notice be given to such committee of the said motion.

III. ALL acts and parts of acts, coming within the purview of this act, are hereby repealed.

IV. *PROVIDED*, that when an ideot or lunatic shall be sent to the hospital and a committee shall be appointed, no suit or action depending against such ideot or lunatic shall abate, but a scire facias shall issue against the committee, and the same proceedings shall be had thereupon against such committee as if the said suit or action had originally been brought against him, and the judgment shall be entered up against him, upon which a fieri facias only shall issue, to be levied of the goods and chattels of the ideot or lunatic in the hands of such committee. And when an ideot or lunatic shall be discharged from the hospital, no suit depending against his committee shall abate, but a scire facias as aforesaid shall issue against the person so discharged, and the same judgment shall be had against him or her in the same manner as if such suit had been originally brought against him or her.

Suits against ideots &c. removed to hospital to be revived against committees.

V. *THIS* act shall commence and be in force from and after the passing thereof.

Commencement of this act.

CHAP. CCXCV.

An Act to direct the mode of proceeding under Executions in certain cases.

[Passed the 19th of January, 1802.]

I. **W**HEREAS doubts exist, whether on the death of the sheriff or other officer, who may have taken property under execution, which may remain unsold at the time of his death, there is any mode to compel a sale of such property.

Preamble,

II. *BE it enacted therefore by the General Assembly*, That in all cases in which a sheriff or other officer, taking property under execution, shall die before he sells such property, it shall be lawful for the clerk of the court from which such execution issued, and he is hereby required to issue a *venditioni exponas*, directed to the sheriff or serjeant of the county or corporation in which the property was taken under execution; and the said sheriff or serjeant shall under the said *venditioni exponas*, receive the property from the representatives of the former sheriff or other officer, who are hereby required to deliver such property to the said sheriff, upon his producing the *venditioni exponas*, and executing to them a receipt for the property; and the said sheriff shall proceed to sell such property, in the manner prescribed by law in other cases of *venditioni exponas*.

Property under execution and in possession of a sheriff at the time of his death, how to be sold.

III. *AND be it further enacted*, That if the representatives of the deceased sheriff, shall refuse or neglect to deliver to the sheriff, the property so taken under execution, by their testator or intestate, upon the sheriff's producing the *venditioni exponas*, or if after the expiration of three months from the death of the said sheriff or collector, there be no executor or administrator of the same, he shall return the truth of the case upon the said writ; upon which return the plaintiff (or if it be a case of the commonwealth, the Auditor) may at their option, have an execution, by virtue of which the sheriff or other officer, may seize the property taken by the former sheriff or other officer, wherever it may be found, and sell the same, in the manner prescribed by law under similar executions; or the said plaintiff or auditor, as the case may be, may move in the court from which the original execution issued, against the representatives of the deceased sheriff, or other officer; upon which motion judgment shall be entered up against the representatives of the deceased sheriff or other officer, for the amount of the execution, which came to the hands of their testator or intestate, with lawful interest on the same, and the costs of said motion. *Provided always*, that the execution issuing on such judgment, shall be levied on the estate of the said deceased sheriff in the hands of his representatives, who shall in all cases have ten days previous notice of the time and place of making such motion.

Proceedings where such property be not delivered to sheriff.

IV. *AND be it further enacted*, That the sheriff or other officer discharging the duties prescribed by this act, shall have the same powers, receive the same fees and commissions, and be liable to the same penalties as in other cases.

Allowance to, and penalty upon sheriffs proceeding under this act.

V. *AND be it further enacted*, That an affidavit in writing of the delivery of an execution on behalf of the commonwealth, to any sheriff or other officer authorised to levy the same, shall be sufficient evidence to render judg-

On what evidence sheriffs may be fined for not returning commonwealth's executions.

ment for the fine, in case such execution shall not be returned within the time limited by law.

Commencement of this
Act.

VI. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCXCVI.

An Act concerning the distribution of unbequeathed Personal Estate.

[Passed the 22d of January, 1802.]

Who may succeed to
infants in certain cases.

I. **B**E it enacted by the General Assembly, That when an infant having title to personal estate, shall die before attainment of the age, when one may legally bequeath that kind of property, or after attaining such age, shall die without bequeathing it, those of his or her kindred shall succeed to the said infant, who would have succeeded, if he or she had been, at the time of his or her death, of the age of twenty-one years.

Commencement of this
act.

II. THIS act shall commence and be in force from and after the passing thereof.

CHAP. CCXCVII.

An Act concerning the High Court of Chancery.

[Passed the 23d of January, 1802.]

Preamble.

I. **W**HEREAS the delays inseparable from the present High Court of Chancery are often equal to a denial of justice,

Commonwealth divid-
ed into three districts.

II. **B**E it enacted by the General Assembly, That this commonwealth shall be divided into three districts, and a superior court of Chancery shall be holden in each district in the manner and at the times hereafter mentioned; that is to say: The counties of Berkeley, Jefferson, Frederick, Shenandoah, Rockingham, Augusta, Rockbridge, Botetourt, Montgomery, Wythe, Washington, Russell, Lee, Grayson, Kanawha, Greenbrier, Monroe, Hampshire, Hardy, Pendleton, Ohio, Bath, Monongalia, Harrison, Brooke, Wood, Randolph and Tazewell, shall compose one district, and a superior court of Chancery shall be held therefor at Staunton, on the twentieth day of March, on the first day of July, and on the fifteenth day of November in every year:—The counties of Albemarle, Amelia, Amherst, Bedford, Brunswick, Buckingham, Campbell, Caroline, Charlotte, Chesterfield, Cumberland, Culpeper, Dinwiddie, Fauquier, Fairfax, Fluvanna, Franklin, Goochland, Greenville, Halifax, Hanover, Henrico, Henry, King-George, King-William, Loudoun, Louisa, Lunenburg, Madison, Mecklenburg, Nottoway, Orange, Patrick, Pittsylvania, Powhatan, Prince-Edward, Prince-William, Prince-George, Spottsylvania and Stafford, shall compose another district, and a superior court of Chancery shall be held therefor, at the Capitol in the city of Richmond, on the first day of March, on the twelfth day of May, and on the tenth day of September in every year:—The counties of Accomack, Charles City, Elizabeth City, Essex, Gloucester, Isle of Wight, James City, King and Queen, Lancaster, Mathews, Middlesex, Nansemond, New-Kent, Norfolk, Northampton, Northumberland, Princess-Ann, Richmond, Southampton, Surry, Sussex, Warwick, Westmoreland and York, shall compose another district, and a superior court of Chancery shall be held therefor, at the former capitol in the city of Williamsburg, on the first day of April, on the first day of July, and on the twelfth day of October in every year; and if any of the said days be Sunday, the courts shall in that case begin on the succeeding day. Each court shall sit, if business requires, twenty-four days (Sundays excluded) and shall be a court of record.

A chancery court to
be holden at Staunton,

Richmond,

and Williamsburg:

Length of sessions

Counties hereafter made
to what districts to be
annexed.

Judges how to be ap-
pointed.

To reside at the place
of holding court.

III. THE counties which shall hereafter be made, shall remain in the same district to which they formerly belonged; and if taken from different districts shall be annexed to that district most convenient to the courthouse of the said new made county.

IV. ONE Judge shall be elected for each of the said courts, by joint ballot of the Senate and House of Delegates; who shall be commissioned in the manner directed by the constitution of this commonwealth.

V. EACH Judge shall reside at the place where the court of the district for which he may be elected, shall be holden.

VI. EVERY Judge so commissioned, before he enters upon the duties of his office, shall take and subscribe the oath of fidelity to this commonwealth, and the oath prescribed by law for the Judge of the High Court of Chancery: Such oath shall be taken before the Executive, and a certificate thereof recorded, in the court of that district to which the said Judges shall respectively belong. If any person shall presume to execute the said office of Judge without having taken the said oaths, he shall forfeit and pay the sum of fifteen hundred dollars for such offence.

How to be qualified,

VII. THE courts hereby established and each of the Judges thereof in term time, as well as in vacation, shall be subject to the same rules and regulations, and shall have and exercise the same jurisdiction and powers within their respective districts, in all and every matter and thing, as the high court of Chancery or the Judge thereof possessed on the first day of January in the year eighteen hundred and two, including the mode of arranging the business in the said courts, of issuing process, serving and returning the same, entering and enforcing decrees, granting and receiving appeals general and special, writs of *ne exeat*, injunctions, bills of review general and special, appointing clerks and officers, subject only to the same constitutional and legal restrictions and limitations as the said High Court of Chancery was then bound by.

Their jurisdiction and powers.

VIII. THE clerks and other officers of the said courts shall be entitled and authorised to receive and demand the same fees and salaries as the clerk and other officers of the said high court of Chancery are now entitled to receive and demand; and the clerks shall deliver their lists of fees to the sheriffs of the different counties of this commonwealth at the same time the clerk of the high court of Chancery is now authorised to do; and shall have the same remedy against sheriffs or their representatives, should their said fees not be accounted for within the time limited by law as the clerk of the high court of Chancery now hath, for which collection they shall receive the same compensation as is now allowed by law for collecting and accounting for the fees of the clerk of the High Court of Chancery.

Fees and salaries to clerks and other officers,

IX. ALL causes which shall be depending in the high court of Chancery on the first day of February next, shall be arranged by the clerk thereof, according to the districts herein described, and with the papers therein, delivered by him to the clerks of the different districts hereby established, together with the state of the costs which may have accrued in each suit to the time of such delivery.

How causes depending in high court of chancery to be arranged and papers delivered.

X. IF either of the Judges of the said courts be interested in any suit, which in the case of any other person would have been proper for the jurisdiction of his court, it shall be lawful to institute such suit in any adjacent district court of chancery, and the process from such adjacent court may be served in the district in which the said judge shall reside, and such proceedings shall be thereupon had as in other cases in Chancery.

How suits wherein a chancery judge is interested may be brought.

XI. ALL process to enforce the execution of any decree, may be issued from any one of the clerk's offices of the said district courts to the sheriff of any county within this state, and shall by him be executed and returned in the same manner, as if the same had issued from the clerk's office of the district in which he may reside.

Process sued out of chancery courts how to be issued and served.

XII. WHEREVER there may be more than one defendant in a suit, the plaintiff or plaintiffs as the case may be, shall have liberty to institute his, or their suit in that district where either of the defendants may reside, and in such case the clerk of the court in which such suit is instituted, shall issue a subpoena to the sheriff or sheriffs of the county or counties out of the district where the other defendant or defendants may reside, authorising him or them as the case may be, to execute and return the same; and the same being returned, the like proceedings may be had thereon, as if the defendant or defendants resided within the district where the suit is instituted.

Where there are several defendants they may be sued in district where either resides.

XIII. THE present Judge of the high court of Chancery shall be the Judge of the district court to be holden in the city of Richmond.

Judge of high court of chancery to be judge of Richmond district.

XIV. ALL laws contrary to the purview hereof, and particularly those relative to the present high court of Chancery, shall be and are hereby repealed, so far as they go to invest that court with powers and a jurisdiction extending over the whole of this commonwealth.

Repealing clause.

XV. THIS law shall commence and be in force from and after the passing thereof.

Commencing clause:

CHAP. CCXCVIII.

An Act supplemental to the act intituled an act concerning the High Court of Chancery.

[Passed the 2d of February, 1802.]

Clerk of Richmond chancery district court to arrange papers of high court of chancery and transmit them to the several district courts.

Rules to be observed in the arrangement.

Causes sent to district courts how to be acted on.

Copies of decisions upon appeals from final decrees of high court of chancery to be sent to Richmond district court.

Also from interlocutory decrees.

Proceedings thereupon.

Richmond district court to enforce decrees rendered by high court of chancery.

How injunctions awarded by judge of high court of chancery to be issued and arranged.

I. **BE** it enacted by the General Assembly, That the clerk of the chancery district court to be held in Richmond, by virtue of the act intituled an act concerning the high court of chancery, shall take into his possession and keeping, all the records and papers of the last mentioned court, and in the arrangement of the causes and suits depending in the said high court of chancery on the first day of February eighteen hundred and two, he shall send the original papers, with certified copies of all orders, and interlocutory decrees, in each suit or cause, to the chancery court of that district within which the defendant shall reside, if there be but one, but if there be two defendants, then to the chancery court of that district, within which the first named defendant in the plaintiff's bill shall reside, and if there be more than two, then to that district in which the majority reside; but if the number of defendants be equal in several districts, then to that district in which the defendant first named in the plaintiff's bill shall reside; if the defendant or defendants, in any cause or suit so depending, be not resident within the state, it shall be retained in the chancery district court of Richmond, unless the plaintiff shall be a resident in the state, and in that case, the papers with copies of the orders and interlocutory decrees, if any, shall be sent to the chancery court of that district within which the plaintiff, if there be but one, or the first named plaintiff in the bill if there be more than one, shall reside. All causes and suits, shall be acted on, and proceeded in, by the chancery district courts to which they shall be sent, in the same manner, as they would have been proceeded in, and acted on in the said high court of chancery, had the said recited act, not have been made; the several orders and interlocutory decrees made in the suits or causes, to be sent to the several chancery district courts shall have the same force, effect and obligation, as if entered by the court to which they shall be sent.

II. IN all cases where appeals have been taken or entered, from final decrees in the said high court of chancery, and are still pending in the court of appeals, a copy of the decree of the court of appeals when made, shall be certified by the clerk, to the chancery district court of Richmond, and the Judge of the said court, shall have full power and authority, to enforce the said decree wherever the parties may reside.

III. THE papers in suits or causes, where appeals are pending in the court of appeals, from interlocutory decrees in the high court of chancery heretofore rendered, shall be retained in the chancery district court of Richmond, until a decision shall take place in the court of appeals, and it shall be the duty of the clerk of the said court, to transmit a copy of such decision or decree, when made, to the chancery district court of Richmond; and if the same be final, the said court shall have full power to enforce and carry into effect the said decision or decree, wherever the parties may reside; but if the said decision or decree shall not be final, then on the receipt of a copy of the decision or decree of the court of appeals, the clerk of the chancery district court of Richmond, shall send the original papers, with a copy of all orders and interlocutory decrees therein, with a copy of the decision or decree, of the court of appeals, to the chancery court of that district in which the parties may reside, according to the directions herein before contained, to be proceeded on therein as if the said suit or cause, had been originally there instituted.

IV. **BE** it further enacted, That the chancery district court of Richmond, shall have full power and authority, and is hereby authorised, to proceed to enforce and carry into effect, all decrees heretofore rendered in the said high court of chancery, and may award executions on forthcoming bonds taken on executions issued on, or which may issue on, decrees heretofore rendered in the said court, and may issue writs of scire facias to revive former decrees of the said court, in the same manner as the said high court of chancery might have done had the said recited act not have passed; and all injunctions awarded by the Judge of the high court of chancery previous to the first day of February eighteen hundred and two, may be issued by the clerk of the said court, in like man-

* receive in the roll.

ner as if the said recited act had not passed, to be arranged and allotted as is prescribed in other cases of injunction herein after mentioned.

V. ALL process for contempt, issued from either of the chancery district courts, may run into any part of the state, and shall be executed in like manner as such process may be executed within the district, and shall be returned to the court from whence such process issued.

VI. THE papers in all injunctions depending in the said high court of chancery, on the first day of February eighteen hundred and two, shall be sent, with copies of all orders and interlocutory decrees therein made, to the chancery court of that district within which the judgment enjoined, was rendered.

VII. THE clerks of the chancery district courts shall reside and keep the records and papers of the said court, at the places of holding the said courts whereto they shall respectively belong.

VIII. ALL processes whatsoever, issuing from either of the chancery district courts, shall bear teste of the clerk of such court, and shall be made returnable to the first, or seventeenth days of the succeeding term of such court.

IX. THE Judge of each of the chancery district courts, shall have power to appoint one or more commissioners, whose fees shall be determined and paid, in the same manner, as the fees of the commissioners of the high court of chancery have heretofore been determined and paid.

X. BE it enacted, That the clerk for the arrangement of the papers, and transmitting them to the several chancery district courts, shall be paid by the treasurer on the warrant of the auditor of public accounts, such sum of money, as the judge of the chancery district court of Richmond, shall certify to be equivalent to his services; and for copying all orders, interlocutory decrees, and for taxing the costs in each cause or suit aforesaid, he shall be allowed and is hereby authorized to charge the same, to the plaintiff or plaintiffs in each suit, at the same rate that he might lawfully charge the same, if he had been required to copy the said orders and interlocutory decrees, and tax the costs by the plaintiff or plaintiffs in each suit, and they shall be recovered and collected as other fees of the said clerk, and if the plaintiff or plaintiffs shall prevail, the said fees shall be recovered of the defendant or defendants, in the said suits respectively.

XI. THAT if the said clerk of the chancery court to be holden in the city of Richmond, shall fail to perform any of the duties required by this or the above recited act of him, he shall forfeit and pay for every such neglect, the sum of one thousand dollars, to be recovered by motion, on ten days notice thereof, by the auditor of public accounts, in the general court, for the use of the commonwealth, which motion shall be made at the instance of any person aggrieved thereby.

XII. THAT each of the judges of the chancery district courts of Staunton and Williamsburg, in taking the oath prescribed by the above recited act, shall change the words "*High Court of Chancery*," for the words "*Chancery District Court of Staunton or Williamsburg*," as the case may be.

XIII. THE same fees to counsel and attornies shall be allowed and taxed in the chancery district courts, as were allowed and taxed in the high court of chancery, previous to the passing of the above recited act.

XIV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCXCIX.

An Act to fix the Salaries of the Judges in Chancery.

[Passed the 30th of January, 1802.]

I. BE it enacted by the General Assembly, That each of the Chancellors appointed under the act, intituled, "*An act concerning the high court of chancery*," passed the present session, shall be entitled to have and receive a salary of fifteen hundred dollars per annum, to be paid quarter-yearly out of any money in the public treasury.

II. THIS act shall commence and be in force from and after the passing thereof.

Process for contempt issued from district courts may run into any part of the state.

Papers in injunctions depending in high court of chancery to be sent to district courts.

Clerks to reside where the courts are held.

How process to bear teste and be returnable

Judges may appoint commissioners.

Compensation to clerk for arranging papers, &c.

Penalty on clerk of Richmond district for not performing certain duties.

Oath of district judges changed.

Fees to counsel.

Commencing clause.

Salaries established.

Commencing clause.

CHAP. CCC.

An Act making further provision for furnishing the Public Officers of this Commonwealth; with the Laws thereof.

[Passed the 26th of January, 1802.]

Preamble.

I. **W**HEREAS Samuel Pleasants, jun. and Henry Pace, Printers in Richmond, have applied to the legislature to aid them in re-printing the last revised code of the laws of this commonwealth, and such other public acts as have passed since that edition was published; and the number of copies of the said revised code allowed and distributed for public use, have been found to be insufficient:

Governor to subscribe for 1000 copies of a new edition of the revised code.

II. *BE it enacted by the General Assembly*, That the Governor be, and he is hereby authorized and required, to subscribe on behalf of the commonwealth, and upon such terms as individuals are permitted to subscribe, for one thousand copies of the edition proposed to be published as aforesaid, the price whereof shall be paid out of the treasury, upon a warrant or warrants to be issued by order of the Executive.

To be considered as authority upon certificate of certain persons.

III. *AND be it further enacted*, That upon a certificate of George W. Smith, John Robinson, James Rind, Adam Craig, and William Wirt, gentlemen, or any two of them, being published with the said laws, stating that they had carefully compared the edition of the acts so to be published with the original laws, and found them to be truly and accurately printed, they shall be received and considered of equal authority in the courts of this commonwealth, as the originals from which they are taken.

Copies taken by public how to be distributed.

IV. THE number of copies to be subscribed for, on behalf of the commonwealth, shall be distributed by the Executive among the public officers of this state, in such manner as they shall think best.

Commencement of this act.

V. THIS act shall be in force from the passing thereof.

CHAP. CCCI.

An Act to amend an act, to amend the act, intituled, An act reducing into one, the several acts for regulating the inspection of Flour and Bread.

[Passed the 27th of January, 1802.]

Unnecessary to re-inspect flour in certain cases.

I. **B**E it enacted by the General Assembly, That in all cases where any flour shall be manufactured in any county, of the states of Pennsylvania or of Maryland, adjoining on the boundary line dividing those states, or either of them, from this commonwealth west of the Allegany mountain, and shall have been duly inspected, marked and branded, agreeably to the law or laws of either of the said states, in which the said flour shall have been manufactured, and afterwards shall be stored in any warehouse, within this commonwealth, for the purpose of exportation, it shall not be deemed necessary that the same flour shall be re-inspected previous to such exportation.

Mixed flour to be sold for benefit of commonwealth.

II. *AND be it further enacted*, That if any miller or manufacturer of flour, or other person, shall produce to any inspector, to be by him inspected, marked or branded, any flour which shall be adjudged by such inspector, to be mixed with flour of any other grain than wheat, or with any other substance whatever, the whole of such mixture shall be condemned by such inspector, who shall cause the same to be sold for the benefit of the commonwealth, after giving notice of the time and place of such sale, for three weeks successively, in some public gazette. And moreover, a fine of ten dollars, for each barrel of mixed flour condemned as aforesaid, shall be imposed on any miller or manufacturer of flour, or other person offering the same to be inspected, to be recovered with costs, in any court of record in this commonwealth, on motion of the inspector, the offender having ten days previous notice of such motion, and the inspector shall be allowed for his trouble, and account for the money received by him, in such manner as is now prescribed by law: *Provided always*, That when any person shall think himself aggrieved by the judgment or want of skill of an inspector, he shall be relieved in the manner prescribed by the tenth section of the act, intituled, "An act reducing into one the several acts for regulating the inspection of flour and bread."

Fire for offering same to be inspected.

Deputy inspector to be approved by a court

III. *AND be it further enacted*, That no person shall be admitted or authorized to act as a deputy to any inspector of flour or bread, until such person

shall have been first nominated to, and approved by the court by whom such inspector shall have been appointed.

IV. ALL acts and parts of acts coming within the purview of this act, shall be and the same are hereby repealed. Repealing clauses

V. THIS act shall commence and be in force from and after the passing thereof. Commencing clause.

CHAP. CCCII.

An Act repealing the act, intituled, An act authorising the Executive to procure arms for the defence of the Commonwealth.

[Passed the 27th of January, 1802.]

I. **B**E it enacted by the General Assembly, That the act passed the twenty-sixth day of December, one thousand seven hundred and ninety-five, intituled, "An act authorising the executive to procure arms for the defence of the Commonwealth," shall be and is hereby repealed. Act for procuring arms repealed. *Provided however, That* Proviso. no contract entered into by the executive by virtue thereof, shall be affected by this act.

II. THIS act shall be in force from the passing thereof. Commencing clause.

CHAP. CCCIII.

An Act changing the mode of proceeding on indictments and informations in certain cases.

[Passed the 28th of January, 1802.]

I. **W**HEREAS doubts have arisen, whether any information can be filed or indictment for a trespass or misdemeanor be sent to a grand jury, unless the name of a prosecutor be written at the foot of such information or indictment, for removing thereof; Preamble.

II. *BE it therefore enacted by the General Assembly,* That where any information shall be filed by the attorney for the commonwealth, by express order of the court entered of record, the party supposed to be culpable having failed to appear, and shew good cause against such order, having been required so to do by summons, appointing a convenient time for that purpose, served upon him, or left at his usual place of abode, no prosecutor shall be required on such information. Nor shall any such prosecutor be required on an information, or bill of indictment for a trespass or misdemeanor filed or sent to a grand jury, which shall be filed or sent to a grand jury, on, and in consequence of a previous presentment of a grand jury made on their own knowledge, or on the information of any two of their own body. No prosecutor required in certain cases.

III. ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, shall be and are hereby repealed: *Provided always,* That nothing in this act contained, shall be construed to affect any prosecution on an indictment or information which shall have commenced before the passing thereof. Repealing clause. Prosecutions commenced before this act not to be affected.

IV. THIS act shall commence and be in force from and after the passing thereof. Commencing clause:

CHAP. CCCIV.

An Act for calling in and registering Certificates of the Public Debt of this State.

[Passed the 28th of January, 1802.]

I. **B**E it enacted by the General Assembly, That before a warrant shall be issued for the interest on any certificate of a debt due from this state, upon which interest is allowed by law, the owner or holder of such certificate shall deposit the same with the treasurer, who shall grant a receipt therefor, specifying the amount of such certificate, distinguishing the principal from the interest thereof; and upon such receipt being presented to the auditor of public accounts, the said auditor shall, and he is hereby required, to issue a new certificate for the principal, and a warrant for the interest. Owners of certificates to deposit them with treasurer before warrants to issue.

II. *AND be it further enacted,* That if the holder or owner of any certificate of a debt due from this state, shall not on or before the first day of Janu- Interest on certificates to cease after 1802, un-

all deposited with treasurer.

Proviso.

Certificates to be received for arrears of certain taxes.

Treasurer to keep a register of certificates.

Commencing clause.

any one thousand eight hundred and three, make application for a warrant for the interest due thereon, such interest shall cease after that period until the said certificate shall be deposited with the treasurer as aforesaid. *Provided however*, that nothing herein contained shall be construed to injure or affect the owners or holders of any certificates upon which warrants have been issued since the first day of January one thousand eight hundred and two, but such persons shall be allowed until the first day of January eighteen hundred and four, to deposit such certificates as aforesaid.

III. *AND be it further enacted*, That all certificates of debts due from this commonwealth, upon which interest is allowed by law, shall be receivable in discharge of any arrears of public taxes due prior to the year seventeen hundred and ninety eight.

IV. THE treasurer of this commonwealth shall keep in a book or books well bound, a register of all certificates alphabetically arranged, for the principal as aforesaid, and of such others as from time to time shall be paid in discharge of taxes, or otherwise redeemed, and shall also carefully file and preserve the original certificates deposited with him by virtue of this act, and all others which may be redeemed, so that the same may be inspected by the succeeding General Assembly.

V. THIS act shall be in force, from the passing thereof.

CHAP. CCCV.

An Act, to amend the act, intituled, An act to amend an act to reduce into one the several acts concerning Slaves, Free Negroes and Mulattoes.

[Passed the 29th of January, 1802.]

Penalty upon masters of vessels for permitting slaves to come on board or for dealing with them,

I. **B**E it enacted by the General Assembly, That any master or skipper of a vessel, who shall permit any slave to come on board his vessel without the leave or consent of the master or overseer, given in writing, or shall buy, sell, or receive of, to, or from a slave, any commodity whatsoever, without the leave or consent of the master or overseer given in writing as aforesaid, shall forfeit and pay for every such offence, in addition to the penalties now imposed by law, the sum of twenty dollars, to be recovered by warrant from any magistrate of the county or corporation, by any person who will prosecute for the same; upon service of which warrant, the offender shall be taken and remain in custody until judgment; and in case of conviction, shall be by such magistrate committed to the jail of his county or corporation, there to remain until payment of the penalty aforesaid: *Provided always*, That in case the skipper of any vessel be a slave, he shall receive for every such offence, thirty-nine lashes on his bare back, to be inflicted by order of any magistrate of a county or corporation.

Common bail to be given by masters of vessels in actions against them for dealing with slaves.

II. *AND be it further enacted*, That where an action on the case shall be brought against any master or skipper as aforesaid, for dealing with any slave, under the sixteenth section of the act of Assembly, intituled, "An act to reduce into one the several acts concerning slaves, free negroes, and mulattoes," such master or skipper shall be required to give appearance bail; provided the plaintiff shall make affidavit before a magistrate of the cause of such action, to be transmitted to the clerk of the court wherein the suit shall be prosecuted.

Additional penalty for dealing with slaves on the sabbath,

III. *AND be it further enacted*, That any person who shall on the sabbath day, buy, sell, or receive, of, to or from a slave, any commodity whatsoever, without the leave or consent of the master or overseer of such slave given in writing, or shall buy, sell, or receive of, to, or from any free negro or mulatto, any commodity whatsoever, on the day aforesaid, shall in addition to the penalties now imposed by law, forfeit and pay the sum of ten dollars, to be recovered by warrant from any magistrate of the county or corporation, by any person who will prosecute for the same.

Commencing clause.

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCCIV.

An Act for arranging the Counties of this State into Districts, to choose Representatives to Congress.

[Passed the 30th of January, 1802.]

I. **B**E it enacted by the General Assembly, That the counties of this commonwealth, and the cities and boroughs entitled to representation, shall be divided into twenty-two districts, in manner following, to wit:—The counties of Monongalia, Brooke, Ohio, Harrison, Wood and Randolph, shall compose one district: The counties of Berkeley, Jefferson and Hampshire shall compose another district: The counties of Frederick and Shenandoah shall compose another district: The counties of Rockingham, Hardy, Pendleton, Augusta and Bath shall compose another district: The counties of Greenbrier, Rockbridge, Botetourt, Monroe and Kanawha shall compose another district: The counties of Wythe, Tazewell, Montgomery, Washington, Grayson, Russell and Lee shall compose another district: The counties of Loudoun, Fairfax and Prince-William shall compose another district: The counties of Westmoreland, Richmond, Lancaster, Northumberland, King-George and Stafford shall compose another district: The counties of Fauquier and Culpeper shall compose another district: The counties of Orange, Madison, Louisa and Spotsylvania shall compose another district: The counties of King & Queen, King-William, Essex and Caroline shall compose another district: The counties of York, Middlesex, Mathews, James-City, Gloucester, Warwick, Elizabeth-City, Accomack and Northampton, and the city of Williamsburg shall compose another district: The counties of Franklin, Bedford, Patrick and Henry shall compose another district: The counties of Halifax, Pittsylvania, and Campbell shall compose another district: The counties of Prince-Edward, Charlotte, Buckingham and Cumberland shall compose another district: The counties of Powhatan, Goochland, Amelia and Chesterfield shall compose another district: The counties of Brunswick, Lunenburg and Mecklenburg shall compose another district: The counties of Dinwiddie, Prince-George, including the town of Petersburg, and the counties of Greenville and Nottoway shall compose another district: The counties of Sussex, Southampton, Surry and Isle of Wight shall compose another district: The counties of Norfolk, Princess-Ann, Nansemond and the borough of Norfolk shall compose another district: The counties of Albemarle, Amherst and Fluvanna shall compose another district; and the counties of Henrico, Charles City, New-Kent, Hanover, and the city of Richmond shall compose another district.

Arrangement districts.

II. *AND be it further enacted*, That the persons qualified by law to vote for members to the house of delegates in each county, city and borough composing a district, shall assemble at their respective courthouses, on the fourth Wednesday in April, in the year one thousand eight hundred and three, and also on the fourth Wednesday in April in every second year thereafter, and then and there vote for some discreet and proper person, being a freeholder and resident within such district, as a member of the house of representatives for the United States.

Representatives in congress how to be elected.

III. **THE** high sheriff of each county, or in case of his sickness or inability to attend, one of the deputy sheriffs, or the mayor of any city or borough, or in case of his inability to attend, the recorder of each city or borough entitled to representation, shall conduct the said election, at which no determination shall be had by view, but each person qualified to vote, shall fairly and publicly poll, and the name of the voter shall be duly entered under the name of the person voted for, in proper poll books to be provided by the officer conducting the election, for which purpose he shall appoint so many writers as he shall think fit, who shall respectively take an oath, to be administered by him, or make solemn affirmation, that they will take the poll fairly and impartially: He shall deliver a poll book to each writer, who shall enter in distinct columns under the name of the person voted for, the name of each elector voting for such person. Like proclamation and proceeding shall be had for conducting, continuing, and closing the poll in each county of a district, as is prescribed by law in the election of members to the General Assembly; and proclamation shall also be made at the courthouse door, or place of holding such election, of the person having the greatest number of votes on the poll, on the closing thereof. Each elector shall be entitled to the same privilege from arrest, and

Elections, how to be conducted.

Privilege of electors.

and penalty for not voting.

Duties of returning officers.

be subject to the like penalty and forfeiture for failing to attend and vote at such election, as is prescribed by law, in the case of election of members to the General Assembly. Such failure to attend shall be discovered and proceeded on in like manner, and under the same penalties as is by law provided against such failures in the election of members to the General Assembly.

IV. IMMEDIATELY after each election in a county, city and borough, held as aforesaid, the clerks of the poll having first signed the same, shall deliver it to the sheriff or other officer who conducted the election, and such sheriff or other officer, together with the respective sheriffs and other officers who conducted the poll of the several counties, cities and boroughs entitled to representation in the district, (but in case of sickness, death or other disability of the officer who shall have conducted the poll, then any other sheriff or officer of the county, and the recorder of any city or borough in which such disability may happen) shall on the eighth day after the election, assemble at the courthouse of the county first named in such district, and then and there compare the polls respectively taken at the elections in their several counties, cities and boroughs, and having ascertained by faithful addition and comparison of the numbers on the respective polls, the person having the greatest number of votes upon the whole, giving their own votes in any case of the two foremost on such poll having an equal number of votes, shall proceed to certify such election under their hands and seals, in manner and form following, to wit: "We A. B. sheriff of _____ county (or deputy sheriff as the case may be) C. D. sheriff of _____ county (as the case may be) (and so reciting the name of the sheriff, and whether principal or deputy of each county, and the name of the mayor or recorder, as the case may be, of each city or borough entitled to representation in the district) composing one entire district entitled by law to elect a member to the house of representatives of the United States, do hereby certify and make known, that at an election held on _____ at the place of holding elections in our respective counties, cities and boroughs, pursuant to law, the electors qualified to vote for members to the house of delegates, caused to be chosen one person, to wit: G. H. to represent the said district as a member of the house of representatives for the United States. Given under our hands and seals this _____ day of _____ one thousand eight hundred and _____." Two fair duplicates of such certificate and return, shall be made by the said sheriffs and other officers under their hands and seals, in the manner before recited, one of which shall be delivered to the person elected to represent the district, and the other shall be transmitted to the governor and council, within twenty days, under the penalty of three hundred dollars, upon each sheriff or other officer, in case of failure or neglect herein, to be recovered by motion in any court of record, by the auditor of public accounts, to the use of the commonwealth, on ten days previous notice of such motion.

Poll books to be recorded.

V. THE said sheriffs and other officers, shall also under like penalty and recovery, deliver to the clerks of their respective counties, within ten days after such return, the original poll books, to be by such clerk entered of record, under the like penalty for failure, as for failing to record the poll books taken at the election of members to the General Assembly—and where a poll shall be taken in any county which shall not become so until after the election, which shall first be holden in pursuance of this act, the officer conducting such election, shall deliver the poll books by him kept, to the clerk of his county, as the same now stands, to be by him also recorded, under the like penalty.

Certificates of elections to be transmitted to congress.

VI. IT shall be the duty of the Executive to enclose to the congress of the United States, the certificates and returns of elections aforesaid, transmitted to them from the respective districts without delay.

Penalty on sheriffs, &c. for any neglect of duty.

VII. ANY sheriff or other officer, refusing to take the poll when he shall be required by a candidate or elector; or taking it in any other manner than is herein before prescribed; or making or signing a false certificate or return of election, as herein before directed; or making any erasure or alteration in the poll book; or refusing to suffer any candidate or elector at his own expense to take a copy of the poll book, shall forfeit and pay six hundred dollars, which penalties may be recovered with costs in actions of debt, by any person who will sue for the same; one half to his own use, and the other half to the use of the commonwealth.

Penalty for bribing electors.

VIII. ANY candidate or other person in his behalf, who shall directly or indirectly, give or agree to give, any elector or pretended elector, money, meat

drink, or other reward, in order to be elected, or for having been elected, shall forfeit and pay fifteen hundred dollars for each offence; to be recovered with costs, by action of debt, to the use of any person who will sue for the same.

IX. *AND be it further enacted*, That the sheriffs and other officers, shall receive for their trouble and expense in conducting the said elections, one dollar and sixty-seven cents for the day on which they shall attend to compare the different polls, together with an allowance of ferriages, and four cents a mile for travelling to and from the county, in which they shall meet for that purpose, to be paid in the same manner as the electors, who are to vote for a President and Vice-President of the United States are paid.

Allowance to sheriffs,
&c. conducting elections.

X. *PROVIDED always*, That no person entitled to suffrage in pursuance of this act, shall during the same election vote more than once for the same candidate, under the penalty of one hundred dollars, to be recovered by action of debt, in any court of record, by any person who will sue for the same, nor shall any such person be admitted to vote in any such election, at the courthouse or other place of holding the election in any county, city or borough in a district, unless the freehold or other estate in right of which he offers to vote, shall lie in that county, city or borough in which he gives his vote.

No elector to vote more
than once for same candidate.

XI. *BE it further enacted*, That in case of the death or absence of any person hereby required to hold an election, the senior magistrate in each county, city or borough respectively, and in his absence, inability or incapacity by being a candidate, the second, and so on in succession to the junior magistrate, is hereby authorised, empowered and required, to perform the duties of the person so dying or being absent—And the said magistrates in case of refusal, shall be subject to all the penalties to which any sheriff or other person required to hold an election, is liable,* and shall be entitled to the same compensation.

Magistrates to perform
duties of sheriffs in cer-
tain cases.

XII. SO much of every other act, as prescribes the time of electing representatives to serve in the congress of the United States, and regulates the arrangement of the counties of this commonwealth for the said purpose, shall be and the same is hereby repealed.

Repealing clause.

XIII. THIS act shall commence and be in force, from and after the fifth day of March, one thousand eight hundred and three.

Commencing clause.

CHAP. CCCVI.

An Act to fix the Salaries of certain Officers.

[Passed the 2d of February, 1802.]

I. *BE it enacted by the General Assembly*, That the officers hereafter mentioned, shall be allowed annually the following salaries: The keeper of the Penitentiary house, the sum of one thousand two hundred dollars; the turnkey to the Penitentiary house, the sum of two hundred and sixty-six dollars and sixty-six cents; the clerk of the Penitentiary house, the sum of six hundred and twenty-five dollars; the door-keeper of the capitol, and of the council, whose duty is to keep the capitol clean, and obey the orders of the Executive, the sum of three hundred dollars; and the keeper of the keys of the capitol, the sum of two hundred dollars; to each of the under clerks in the Register's office, five hundred dollars; to the keeper of the public seal, three hundred dollars; to the assistant clerk of the council, one thousand dollars, which several sums shall be paid quarterly out of the treasury, on warrants to be issued by the auditor of public accounts.

Salaries of certain officers fixed.

II. *AND be it further enacted*, That the following officers shall be allowed annually, the salaries herein after mentioned, to be paid quarterly, and to commence as soon as the Executive adjudge that their services are necessary—The superintendant of the manufactory of arms, the sum of two thousand dollars; the master armourer, the sum of one thousand dollars; the assistant armourer, the sum of one thousand dollars; the clerk to the manufactory of arms, the sum of five hundred dollars; and the commissary and store keeper to the manufactory of arms, the sum of five hundred dollars; which several sums last mentioned, shall be paid in the same manner, that the other salaries allowed by this act are paid; that until the last mentioned salaries commence, those who are employed in the armory by the Executive shall be paid as heretofore.

Salaries of others fixed,
but not to commence till
services required.

Until they commence,
persons employed in ar-
mory to be paid as here-
tofore.

* liable to, in the roll.

Executive not to fix salary of any clerk.

Commencement and continuance of this act.

III. THAT all acts or parts of acts which authorised the Executive to fix the salaries of any clerk, shall be and the same are hereby repealed.

IV. THIS act shall be in force from the passing thereof, and shall continue in force until the end of the next session of the General Assembly.

CHAP. CCCVII.

An Act authorising Joseph Caldwell to re-publish the Public Acts of this Commonwealth.

[Passed the 28th of January, 1802.]

Preamble.

I. WHEREAS it hath been represented that a collection has been made by Joseph Caldwell, of such acts of the General Assembly of a public and permanent nature, as are now in force within this commonwealth; and the said Joseph Caldwell having petitioned the legislature to sanction a publication of the same in such manner as to give them legal authority:

Re publication of public acts sanctioned.

II. BE it enacted, That Hugh Holmes, Charles Magill, Robert White, and Archibald Magill, gentlemen, or any three of them, be, and they are hereby authorised to examine the collection of the aforesaid acts, and all the notes and references respecting the same, made and proposed to be published by the said Joseph Caldwell; and if the said committee shall be of opinion, that the said laws have been carefully collated, that the notes are accurately made, and that an edition thereof will be of public utility, upon a certificate to that effect, signed by three at least of the aforesaid persons, published with the said laws, and also that they are truly and accurately printed, they shall be received, adjudged and considered, of equal authority with the originals from which they are taken, in all courts and other places within this commonwealth.

Commencing clause.

III. THIS act shall be in force from the passing thereof.

APPENDIX

At a *General Assembly*, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 21st day of *October*, in the Year of our Lord, 1782.

CHAP. I.

An Act for Equalizing the Land-Tax.

I. **W**HEREAS the land tax, as at present charged by the commissioners of the several counties, is found to be very unequal, and from experience of the past, it is certain that future valuations or assessments (although attended with great expense and delay) will not produce that equality so essentially necessary to the happiness of all the good citizens of this commonwealth: And whereas, by arranging the several counties whose soil and situation are nearly similar, into districts, a standard value is produced, whereby the accounts of every person within the said district may be justly regulated for all charges on land hereafter to be imposed, and a rule established whereby in future the tax upon landed property may be laid with ease and certainty, and collected with all possible equality: *Be it enacted*, that the counties within this commonwealth shall be laid off into four districts in manner following, that is to say: The counties of *Accomack, Northampton, Princess Anne, Norfolk, Nansemond, Isle of Wight, Southampton, Surry, Sussex, Prince George, Dinwiddie, Greenville, Brunswick, Chesterfield, Henrico, Charles City, James City, New-Kent, York, Warwick, King & Queen, Elizabeth City, Hanover, Gloucester, Middlesex, Essex, King William, Caroline, Spotsylvania, Lancaster, Northumberland, Richmond, Westmoreland, King George, Stafford, Prince William, Goochland, Powhatan, Cumberland, Amelia, and Fairfax* shall compose the first class. The counties of *Loudoun, Fauquier, Culpeper, Orange, Louisa, Fluvanna, Lunenburg, Mecklenburg, Prince Edward, Charlotte, Albemarle, Buckingham, Berkeley, Amherst, Campbell, Halifax, Bedford, and Frederick*, shall compose the second class. The counties of *Pittsylvania, Henry, Botetourt, Shenandoah, Rockingham, Augusta, Rockbridge, and Hampshire*, shall compose the third class: And the counties of *Washington, Montgomery, Greenbrier, Monongalia, Ohio, Fayette, Jefferson, and Lincoln*, the fourth class. And *John Pendleton, junior, and Samuel Jones*, gentlemen, are hereby appointed to examine the returns made of the valuations of the present year, and to ascertain the average price per acre of all the lands in each county, within the districts aforesaid, and (carrying all fractions of a penny to the benefit of the revenue) by comparing the same with the standard or average value of each district herein after declared, shall, and they are hereby empowered, directed, and required, by a just percentage, to apply the difference to the account of every individual within the district, and add to or deduct from the same accordingly. And the said examiners shall, before they proceed on the business aforesaid, take the following oath, viz. *I A. B. do solemnly swear that I will to the best of my skill and judgment, ascertain the true average price per acre of the lands within the several counties of this commonwealth, agreeable to the returns made, and by comparing the same to the standard by law established, will make out a just account of the land tax of every person charged in the said returns agreeable to this act, and transmit the same as by law required. So help me God.* And each of the said examiners, for their services herein, shall receive from the treasurer of this commonwealth, by warrant from the auditors (which upon receipt of the books herein after mentioned, they are and shall be empowered to grant) the sum of three hundred pounds.

Preamble.

Lands classed by counties.

Commissioners appointed to regulate the tax by the assessments.

II. *AND be it enacted*, That the average or standard of the first district is and shall be ten shillings; the average or standard of the second district is and shall be seven shillings and six pence; the average or standard of the third district five shillings and six pence; and the average or standard of the fourth district three shillings. And that the tax upon land thus equalized may be duly collected, the examiners aforesaid are hereby required to make out a book of the accounts of each county, and on or before the first day of *May* next transmit the same to the commissioners of the tax for each county hereafter to be appointed, who shall grant receipts for the same, and the said county commissioners shall cause a copy of the said book to be delivered to the sheriff, on

Standard tax of each class.

Collection by their books.

or before the fifteenth day of the said month, by which the sheriff shall proceed to collect from every person named therein, the sum charged in the said book and no more. And the said examiners are hereby required to make up a separate book, or books, for each class of counties, in which each county shall be separate and distinct, arranging in alphabetical order the charges against every individual in each county, which said books shall be kept in the auditor's office.

Commissioners of the tax to be chosen for three years.

Their oath.

Duty in case of alienations or partitions.

To correct former errors.

List of conveyances and partitions to be furnished;

and of patents.

III. AND to prevent loss and confusion in consequence of alienations of property, as well as that all lands within the several counties which now are vacant and may hereafter be taken up, or which may not have been valued by the county commissioners for the present year, may be charged with a just and proper tax; *Be it enacted*, that the court of each county within this commonwealth shall, at their sessions in the months of *March* or *April*, nominate and appoint two fit persons to execute the office of commissioners of the tax within the same, who shall remain in office three years from the time of their appointment, which said commissioners, before they enter upon the duties of their office, shall before the court of the said county, take the following oath, to wit: *I A. B. do solemnly swear, (or affirm, as the case may be) that I will diligent enquiry make of all lands within the county, which have not heretofore been valued, and a just valuation thereof make, agreeable to that of other lands of equal quality and situation within the said county; also of all alienations or partitions which may be made, and in all other matters and things discharge the duties of my office agreeable to law, with diligence and impartiality, to the best of my skill and judgment. So help me God.* And in case of the death, refusal, or disability to act, of the said commissioners, or either of them, the county court as aforesaid shall, at any time, appoint others in their place. That it shall be the duty of the said commissioners, in all cases of alienation or partition within their said county, from the time of delivery to the sheriff of the book for collection in any one year, to the same time in the next succeeding year, to go upon the land so alienated or divided, and valuing the same at a price equal to other lands in the said county similar in soil and situation, shall give a credit to the person disposing of the same, and charge the purchaser or receiver with the tax payable thereon, and in like manner in cases where lands have not been heretofore valued, or where lands which now are vacant and may hereafter be taken up, the said county commissioners shall, and they hereby are required to value the same, and charge the owner thereof with the tax in manner aforesaid. And the said county commissioners shall annually, within two months after delivery to the sheriff of the book or list for collection, make return to the auditor's office of all alterations in the county book by addition, alienation, or partition, as aforesaid, that corresponding entries may be made in the book for each county kept at the said office, and shall make such additions or alterations in the list or book by them to be delivered for the collection of the current year. The said commissioners shall also, and they are hereby required upon application and full proof to them made, to correct all errors which may have been made by the former commissioners, either with respect to the quantity of land or to the ownership thereof, and charge or give credit for the same; and for every entry of alteration or alienation, the said commissioners may demand and receive the sum of five shillings.

IV. AND to enable the county commissioners to make full and just valuations and returns as aforesaid, *Be it enacted*, that the clerk of the general court shall, on or before the first day of *May* in every year, transmit, and the clerk of the county court deliver to the said commissioners, a list of all conveyances or partitions within the preceding year in the respective courts admitted to record, certifying the quantity and situation of the land so conveyed, and if the purchaser or seller shall not before the said first day of *May*, have satisfied the said commissioners as to the just value of the land, the same shall be charged as land of the best quality in the said county; and in cases of land which may now be vacant, the register of the land-office shall, and he is hereby required to transmit, on or before the first day of *April*, in the year one thousand seven hundred and eighty-four, to the commissioners of each county, a list of all grants issued from his office, or made out for vacancies within the said county, since the first day of *January* last, and in like manner before the first day of *April* in each succeeding year, of all grants issued or made out within the year preceding, to be by them valued and charged as aforesaid, for which valuation they shall be paid by the public, at the rate of two shillings and sixpence for every hundred acres contained in the said grant; and in cases of partition, by will

or inheritance, the same fee may be demanded from the person entitled to such partition as where the same is done by conveyance.

V. AND whereas alienations or partitions may have been made since the valuations of the present year, or may be made before the first day of *May* next: *Be it enacted*, that the said county commissioners shall, and they are hereby authorised and required, to value all such alienations or partitions, and charge the owner with the tax arising from the same, together with the fees, in manner as heretofore is directed; and the said commissioners shall be entitled to receive from the public, the sum of twelve pounds, for copying the book or list annually, to be delivered to the sheriff, and for delivering the same; and the sum of eight pounds for the return to the auditor's office, of such alterations or additions as may annually take place within the county; the fees chargeable to the public shall be paid by the treasurer on the auditor's warrants at the time of making the annual return to the auditor's office as aforesaid. The said examiners failing to perform the services by this act required, shall forfeit and pay the sum of two thousand pounds each; the register of the land-office shall forfeit and pay, for every offence, the sum of fifty pounds; the county commissioners for every offence, the sum of two hundred pounds each; the clerk of the general court, or of the county courts, the sum of fifty pounds each; and the justices of the several counties failing to make the appointments by this act required, shall forfeit and pay the sum of fifty pounds each. All which forfeitures shall be one half to the informer, the other half to the use of the county where the offences shall be committed, to be recovered by information, in any court of record, giving ten days previous notice.

Allowance to auditors.

Penalties.

VI. *AND be it enacted*, That the valuation of lots in the cities, boroughs or towns, shall (except where manifest inequality may have taken place) stand and remain as they now are; and in cases where lots may be added to any city, borough or town, or where new towns may be established, or where alienations or partitions may take place, or where mistakes may have been made in former valuations, the county commissioners aforesaid shall be governed by the same rules and regulations as by this act are established with regard to land in like cases.

Rule as to lots in towns.

VII. *AND be it further enacted*, That in case of the death, disability, or refusal to act, of the examiners appointed by this act, or either of them, it shall be lawful for the governor, with advice of council, to fill up the vacancy occasioned thereby.

General Assembly, begun and held at the Public Buildings in the City of *Richmond*, on *Monday*, the 3d Day of *May*, in the Year of our Lord, 1784.

CHAP. II.

An Act to amend the Act, "For Equalizing the Land Tax."

I. **W**HEREAS several County Courts within this Commonwealth have failed to appoint Commissioners pursuant to the act "For equalizing the land tax," by reason whereof the tax on lands could not be collected in the said Counties;

Preamble.

II. *BE it enacted by the General Assembly*, That the Courts of such Counties shall, before the first day of *May* next, nominate and appoint two fit persons to execute the office of Commissioners within their respective Counties, pursuant to the directions of the said act. On failure in any Counties to make such appointment, the Governor, with the advice of the Council (being notified of such failure by the Clerk of such Court, which he is hereby required to do under the penalty of five hundred pounds, recoverable by bill, plaint, or information, in any Court of Record within this Commonwealth) shall, and he is hereby authorised and required to appoint Commissioners in such Counties to carry into execution the above recited act.

Commissioners how to be elected.

III. *AND be it further enacted*, That the Sheriffs of the said Counties shall, and they are hereby required, to collect the said taxes in like manner as the former Sheriffs might have done if the requisitions of the said act had been

Tax, how to be collected.

complied with, and to account for and pay the same into the Treasury, on or before the first day of May, in the year one thousand seven hundred and eighty-six.

CHAP. III.

An Act for clearing and improving the navigation of James River.

Preamble.

I. **W**HEREAS the clearing and extending the navigation of James river from tide water upwards to the highest parts practicable on the main branch thereof, will be of great public utility, and many persons are willing to subscribe large sums of money to effect so laudable and beneficial a work; and it is just and proper that they, their heirs, and assigns, should be empowered to receive reasonable tolls in satisfaction for the money advanced by them in carrying the work into execution, and for the risk they run: AND WHEREAS it may be necessary to cut canals and erect locks, or other works on the sides of the said river;

Books to be opened for subscription.

II. *BE it enacted by the General Assembly*, That it shall and may be lawful to open books in the City of Richmond, the Borough of Norfolk, at Botetourt Courthouse, at the Town of Lewisburg, in Greenbrier county, and at Charles Irving's store, in Albemarle, for receiving and entering subscriptions to the amount of one hundred thousand dollars, for the said undertaking, under the management of Turner Southall and James Buchanan, in the City of Richmond; of Robert Taylor, John Kearnes, and Thomas Newton, jun. in the Borough of Norfolk; of William Cabell and Charles Irving, at Irving's store; Patrick Lockhart and George Skellern, at Botetourt Courthouse; George Clendinen and Andrew Donnolly, at Lewisburg; which subscriptions shall be made personally, or by power of attorney, and shall be in Spanish milled dollars, but may be paid in other silver, or in gold coin of the same value. That the said books shall be opened for receiving subscriptions, on the first day of February next, and continue open until the tenth day of August next inclusive; and on the twentieth day of the said month of August, there shall be a general meeting of the subscribers, at the City of Richmond, of which meeting notice shall be given by the said Managers, or any three of them, in the Virginia Gazette, at least one month next before the said meeting. And such meeting shall and may be continued from day to day, until the business is finished. And the acting Managers at the time and place aforesaid, shall lay before such of the subscribers as shall meet according to the said notice, the books by them respectively kept, containing the state of the said subscriptions, and if one half of the capital sum aforesaid, should, upon examination, appear not to have been subscribed, then the said Managers, at the said meeting, are empowered to take and receive subscriptions to make up the deficiency; and a just and true list of all the subscribers, with the sums subscribed by each, shall be made out and returned by the said Managers, or any four or more of them, under their hands, into the General Court, to be there recorded. And in case more than one hundred thousand dollars shall be subscribed, then the same shall be reduced to that sum by the said Managers, or a majority of them, by beginning at and striking off from the largest subscription or subscriptions, and continuing to strike off a share from all subscriptions under the largest, and above one share, until the sum is reduced to the capital aforesaid, of one hundred thousand dollars, or until a share is taken from all subscriptions above one share, and lots shall be drawn between subscribers of equal sums, to determine the number in which such subscribers shall stand on a list to be made for striking off as aforesaid; and if the sum subscribed still exceeds the capital aforesaid, then to strike off by the same rule, until the sum subscribed is reduced to the capital aforesaid, or all the subscriptions are reduced to one share; and if there still be an excess, then lots to be drawn to determine the subscribers who are to be excluded, to reduce the subscriptions to the capital aforesaid, which striking off shall be certified in the list aforesaid; and the said capital sum shall be reckoned and divided into five hundred shares of two hundred dollars each, of which every person subscribing may take and subscribe for one or more whole shares, and not otherwise. *Provided*, That unless one half of the said capital shall be subscribed, all subscriptions made in consequence of this act shall be void; and in case one half, and less than the whole of the said capital shall be subscribed as aforesaid, then the President and Directors are hereby empowered and directed to take and receive the subscriptions which shall be first offered, in whole shares as aforesaid, until the def-

Meeting of the subscribers.

In case of an overplus subscription, method of reducing it.

Capital to be divided into 500 shares.

Unless one half of capital subscribed, the whole to be void.

ciency shall be made up, a certificate of which additional subscriptions shall be made, under the hands of the President and Directors, or a majority of them for the time being, and returned to and recorded in the General Court as aforesaid.

III. *AND be it enacted*, That in case one half of the said capital, or a greater sum, shall be subscribed as aforesaid, the said subscribers, and their heirs and assigns, from the time of the said first meeting, shall be, and are hereby declared to be incorporated into a Company, by the name of the "James River Company," and may sue, and be sued as such; and such of the said subscribers as shall be present at the said meeting, or a majority of them, are hereby empowered and required to elect a President and four Directors, for conducting the said undertaking, and managing all the said Company's business and concerns, for and during such time, not exceeding three years, as the said subscribers, or a majority of them, shall think fit. And in counting the votes of all general meetings of the said Company, each member shall be allowed one vote for every share, as far as ten shares, and one vote for every five shares above ten, by him or her held at the time in the said Company; and any proprietor, by writing under his or her hand, executed before two witnesses, may depu- any other member or proprietor to vote and act as proxy for him or her, at any general meeting.

To be incorporated as a company.

Rules for electing officers.

IV. *AND be it enacted*, That the said President and Directors so elected, and their successors, or a majority of them assembled, shall have full power and authority to agree with any person or persons, on behalf of the said Company, to cut such canals, and erect such locks, and perform such other works as they shall judge necessary for opening, improving and extending the navigation of the said river above tide water, to the highest part thereof, to which navigation can be extended, and carrying on the same from place to place, and from time to time, and upon such terms, and in such manner, as they shall think fit; and out of the money arising from the subscriptions and the tolls, and other aids herein after given, to pay for the same, and to repair and keep in order the said canals, locks, and other works necessary thereto, and to defray all incidental charges; and also to appoint a Treasurer, Clerk, and such other Officers, Toll Gatherers, Managers, and servants, as they shall judge requisite, and to agree for and settle their respective wages or allowances, and to settle and sign their accounts; and also to make and establish rules of proceeding, and to transact all the other business and concerns of the said Company, in and during the intervals between the general meetings of the same; and they shall be allowed as a satisfaction for their trouble therein, such sum of money as shall, by a general meeting of the subscribers, be determined. *Provided always*, That the Treasurer shall give bond, in such penalty, and with such security, as the said President and Directors, or a majority of them, shall direct, for the true and faithful discharge of the trust reposed in him, and that the allowance to be made to him for his services, shall not exceed three pounds in the hundred, for the disbursements by him made; and that no Officer in the said Company shall have any vote in the passing or settlement of his own account.

Authority of President and Directors.

V. *AND be it enacted*, That the said President and Directors, and their successors, or a majority of them, shall have full power and authority, from time to time, as money shall be wanted, to make and sign orders for that purpose, and direct at what time, and in what proportion the proprietors shall advance and pay off the sums subscribed, which orders shall be advertised at least one month in the Virginia Gazettes; and they are hereby authorized and empowered to demand and receive of the several proprietors, from time to time, the sums of money so ordered to be advanced for carrying on and executing, or repairing and keeping in order the said works, until the sums subscribed shall be fully paid and to order the said sums to be deposited into the hands of the Treasurer, to be by him disbursed and paid out as the said President and Directors, or a majority of them, shall order and direct. And if any of the said proprietors shall refuse or neglect to pay their said proportions, within one month after the same shall be so ordered and advertised, as aforesaid, the said President and Directors, or a majority of them, may sell at auction, and convey to the purchaser, the share or shares of such proprietor so refusing or neglecting payment, giving at least one month's notice of the sale in the Virginia Gazette; and after retaining the sum due, and charges of sale out of the money produced thereby, they shall refund and pay the overplus, if any, to the former owner,

Mode of collecting amount of shares.

Shares may be sold in case of failure in payment.

Owners may be sued.

and if such sale shall not produce the full sum ordered and directed to be advanced, as aforesaid, with the incidental charges, the said President and Directors, or a majority of them, may, in the name of the Company, sue for and recover the balance by action of debt, or on the case; and the said purchaser or purchasers, shall be subject to the same rules and regulations, as if the said sale and conveyance had been made by the original proprietor. And to continue the succession of the said President and Directors, and to keep up the same number;

New officers to be chosen.

VI. *BE it enacted*, That from time to time, upon the expiration of the said term, for which the said President and Directors were appointed, the proprietors of the said Company, at the next general meeting, shall either continue the said President and Directors, or any of them, or choose others in their stead; and in case of the death, removal, resignation, or incapacity of the President, or any of the said Directors, may and shall, in the manner aforesaid, elect any other person or persons, to be President and Directors, in the room of him or them so dying, removing, or resigning; and may at any of their general meetings, remove the President or any of the Directors, and appoint others for and during the remainder of the term, for which such person or persons were at first to have acted.

Oath of office.

VII. *AND be it enacted*, That every President and Director, before he acts as such, shall take an oath or affirmation, for the due execution of his office.

Meetings of the company.

VIII. *AND be it enacted*, That the presence of proprietors, having one hundred shares at the least, shall be necessary to constitute a general meeting; and that there be a general meeting of proprietors on the first Monday of October, in every year, at such convenient town as shall be, from time to time, appointed by the said general meeting; but if a sufficient number should not attend on that day, the proprietors who do attend may adjourn such meeting from day to day, till a general meeting of proprietors shall be had, which may be continued from day to day, until the business of the Company is finished, to which meeting, the President and Directors shall make report, and render distinct and just accounts of all their proceedings; and on finding them fairly and justly stated, the proprietors then present, or a majority of them, shall give a certificate thereof, a duplicate of which shall be entered on the said Company's books; and at such yearly general meetings, after leaving in the hands of the Treasurer such sum, as the proprietors, or a majority of them, shall judge necessary for repairs and contingent charges, an equal dividend of all the neat profits arising from the tolls hereby granted, shall be ordered and made, to and among all the proprietors of the said Company, in proportion to their several shares; and upon any emergency in the interval between the said yearly meetings, the said President, or a majority of the said Directors, may appoint a general meeting of the proprietors of the said Company, at any convenient town, giving at least one month's previous notice in the Virginia Gazettes, which meeting may be adjourned and continued, as aforesaid.

Property to be vested in the holders of shares.

IX. *AND be it enacted*, That for and in consideration of the expenses the said proprietors will be at, not only in the cutting the said canals, erecting locks, and other works for opening the different falls of the said river, and in improving and extending the navigation thereof, but in maintaining and keeping the same in repair, the said canals and works, with all their profits, shall be, and the same are hereby vested in the said proprietors, their heirs, and assigns, for ever, as tenants in common, in proportion to their respective shares, and the same shall be deemed real estate, and be for ever exempt from payment of any tax, imposition, or assessment whatever; and that it shall and may be lawful for the said President and Directors, at all times forever hereafter, to demand and receive, at the most convenient place, at or near the falls between Westham and tide water, tolls according to the following Table of rates, to wit:

In Dollars, and Parts of a Dollar.

Parts of a Dollar.

Every pipe or hoghead of wine, containing more than 65 gallons,	45-72nds.
Every hoghead of rum or other spirits,	36-72nds.
Every hoghead of tobacco,	30-72nds.
Every cask between 65 and 35 gallons, half of a pipe or hoghead, barrels one-fourth part, and smaller casks or kegs, in proportion, according to the quality and quantity of their contents of wine or spirits.	

For casks of linseed oil, the same as spirits,	
Every bushel of wheat, peas, beans, or flax-seed,	5-288ths.
Every bushel of Indian corn, or other grain, or salt,	2 1-2-288ths.
Every barrel of pork,	15-72nds.
Every barrel of beef,	10-72nds.
Every barrel of flour,	30-288ths.
Every ton of hemp, flax, pot-ash, bar or manufactured iron,	1 3-72nds.
Every ton of pig-iron, or castings,	25-72nds.
Every ton of copper, lead, or other ore, other than iron ore,	60-72nds.
Every ton of stone, or iron ore	12-72nds.
Every hundred bushels of lime,	38-72nds.
Every chaldron of coals,	12-72nds.
Every hundred pipe staves,	6-72nds.
Every hundred hoghead staves, or pipe or hoghead heading,	15-288ths.
Every hundred barrel staves, or barrel heading,	10-288ths.
Every hundred cubic feet of plank, or scantling,	25-72nds.
Every hundred cubic feet of other timber,	55-288ths.
Every gross hundred weight of all other commodities or packages,	15-288ths.
Every boat or vessel, which has not commodities on board, to yield so much; provided that an empty boat or vessel returning, whose load has already paid at the respective places, the sums fixed at each, shall repass toll free,	1 3-72nds.

Which tolls may be discharged in foreign gold or silver coin of the present fineness, at the present rates: But if any of the coin aforesaid, should hereafter be rendered less valuable than they are at present, either by lessening their weight, or therewith adding a greater quantity of alloy than is in them respectively at present, then so much of any of the said coins, the value of which is so reduced, to be received for the tolls aforesaid, as is equal in value to the said coins in their present state of fineness and weight, shall be payable for the said tolls, at their reduced value only. And in case of refusal or neglect to pay the toll at the time of offering to pass through any of the said places, and previous to the vessel's passing through the same, the Collectors of the said tolls may lawfully refuse passage to such vessel; and if any vessel shall pass through without paying the said toll, then the said Collectors may seize such vessel, wherever found, and sell the same at auction, for ready money, which, so far as is necessary, shall be applied towards paying the said toll, and all expenses of seizure, and the balance (if any) shall be paid to the owner; and the person having the direction of such vessel, shall be liable for the toll, if the same is not paid by the sale of such vessel, as aforesaid. *Provided*, That the said proprietors, or a majority of them, holding at least three hundred shares, shall have full power and authority, at any general meeting, to lessen the said tolls, or any of them, or to determine that any article may pass free of toll.

In case of refusal to pay toll, passage to vessels may be refused.

X. *AND be it enacted*, That the said river, and the works to be erected thereon in virtue of this act, when completed, shall forever thereafter, be esteemed and taken to be navigable as a public highway, free for the transportation of all goods, commodities, or produce whatsoever, on payment of the tolls imposed by this Act: and no other toll or tax whatever, for the use of the water of the said river, and the works thereon erected, shall, at any time hereafter, be imposed: *AND WHEREAS*, it is necessary for the making the said canal, locks, and other works, that a provision should be made for condemning a quantity of land for the purpose:

River and works to be a public highway.

XI. *BE it enacted*, That it shall and may be lawful, for the said President and Directors, or a majority of them, to agree with the owners of any land, through which the said canal is intended to pass, for the purchase thereof; and in case of disagreement, or in case the owner thereof shall be a feme covert, under age, non compos, or out of the State, on application to any two Justices of the County in which such land shall lie, the said Justices shall issue their warrant under their hands, to the Sheriff of their County, to summon a Jury of twenty-four inhabitants of his County, of property and reputation, not related to the parties, nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant, not less than ten, nor more than twenty days thereafter; and the Sheriff upon receiving the said warrant, shall forthwith summon the said Jury, and when met, provided there be not less than twelve, shall administer an oath or affirmation to every jurymen that shall appear; "That he will faithfully, justly, and impartially, value the land, (not exceeding in

Company may purchase lands.

"any case the width of one hundred and fifty feet) and all damages the owner thereof shall sustain by the cutting the canal through such land, according to the best of his skill and judgment; and that in such valuation, he will not spare any person for favor or affection, nor any person grieve for hatred, malice, or ill will." And the inquisition thereupon taken, shall be signed by the Sheriff, and some twelve or more of the Jury, and returned by the Sheriff to the Clerk of his County, to be by him recorded. And upon every such valuation, the Jury is hereby directed, to describe and ascertain the bounds of the land by them valued, and their valuation shall be conclusive on all persons, and shall be paid by the said President and Directors, to the owner of the land, or his legal representative; and on payment thereof, the said Company shall be seized in fee of such land, as if conveyed by the owner thereof to them, and their successors, by legal conveyance. *Provided nevertheless*, That if any farther damage shall arise to any proprietor of land, in consequence of opening such canal, or in erecting such works, than had been before considered and valued, it shall and may be lawful for such proprietor, as often as any such new damage shall happen, by application to, and a warrant from, any two Justices of the County where the lands lie, to have such farther damage valued in like manner, and to receive and recover the same of the said President and Directors. But nothing herein shall be taken or construed to entitle the proprietor of any such land, to recover compensation for any damages which may happen to mills, forges, or other works or improvements which shall be begun or erected by such proprietor, after such first valuation, unless the same damage is wilfully or maliciously done by the said President and Directors, or some person by their authority.

Methods of purchase.

XII. *AND be it enacted*, That the said President and Directors, or a majority of them, are hereby authorized to agree with the proprietors for the purchase of a quantity of land, not exceeding one acre, at or near the places of receipt of tolls aforesaid, for the purpose of erecting necessary buildings; and in case of disagreement, or any of the disabilities aforesaid, or the Proprietor being out of the State, then such land may be valued, condemned, and paid for as aforesaid, for the purpose aforesaid; and the said Company shall, upon payment of the valuation of the said land, be seized thereof in fee simple as aforesaid. AND WHEREAS, some of the places through which it may be necessary to conduct the said canals, may be convenient for erecting mills, forges, or other water works, and the persons, possessors of such situation, may design to improve the same, and it is the intention of this Act, not to interfere with private property, but for the purpose of improving and perfecting the said navigation;

No water to be used by the company for any purpose but that of a canal, but under restrictions.

XIII. *BE it enacted*, That the water or any part thereof, conveyed through any canal or cut made by the said Company, shall not be used for any purpose but navigation, unless the consent of the proprietors of the land through which the same shall be led, be first had; and the said President and Directors, or a majority of them, are hereby empowered and directed, if it can be conveniently done, to answer both the purposes of navigation and water-works aforesaid, to enter into reasonable agreements with the proprietors of such situation, concerning the just proportion of the expenses of making large canals or cuts capable of carrying such quantities of water as may be sufficient for the purposes of navigation, and also for any such water works as aforesaid.

Shares transferable.

XIV. *AND be it enacted*, That it shall and may be lawful for every of the said proprietors to transfer his share or shares, by deed executed before two witnesses, and registered after proof of the execution thereof, in the said Company's books, and not otherwise, except by devise, which devise shall also be exhibited to the President and Directors, and registered in the Company's books, before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls: *Provided*, That no transfer whatsoever shall be made, except for one or more whole share or shares, and not for part of such shares; and that no share shall at any time be sold, conveyed, transferred, or held in trust, for the use and benefit, or in the name of another, whereby the said President and Directors, or proprietors of the said Company, or any of them, shall or may be challenged, or made to answer concerning any such trust, but that every person appearing as aforesaid to be a proprietor, shall, as to the others of the said Company, be to every intent, taken absolutely as such, but as between any Trustee and the person for whose benefit any trust shall be created, the common remedy may be pursued.

Share first offered for sale to the Assembly.

XV. *AND it is hereby further provided*, That each proprietor who shall be desirous of selling his share or shares, shall first offer the same to such person as shall be hereafter empowered by the General Assembly to purchase shares on

public account; and it is hereby declared, that such person acting for the Commonwealth, shall have the preference in all such sales, if he will give the same consideration for which the proprietor shall really and *bona fide* sell. AND WHEREAS, it hath been represented to this General Assembly, that sundry persons are willing and desirous on account of the great public advantages and improvement their estates may receive thereby, to promote and contribute towards so useful an undertaking, and to subscribe sums of money to be paid, on condition the said works are really completed and carried into execution, but do not care to run any risk, or desire to have any property therein:

XVI. *BE it therefore enacted*, That the said President and Directors shall be, and are hereby empowered to receive and take in subscriptions upon the said condition, and upon the said works being completed and carried into execution according to the true intent and meaning of this Act, that it shall and may be lawful for the said President and Directors, or a majority of them, in case of refusal or neglect of payment, in the name of the Company as aforesaid, to sue for, and recover of the said subscribers, their heirs, executors, or administrators, the sums by them respectively subscribed, by action of debt, or upon the case, in any Court of Record within this State.

Officers empowered to take in subscriptions.

XVII. *AND be it enacted*, That if the said capital, and the other aids already granted by this Act, shall prove insufficient, it shall and may be lawful for the said Company, from time to time, to increase the said capital, by the addition of so many more whole shares as shall be judged necessary by the said proprietors, or a majority of them holding at least three hundred shares, present at any general meeting of the said Company; and the said President and Directors, or a majority of them, are hereby empowered and required, after giving at least one month's previous notice thereof in the Virginia Gazettes, to open books in the before mentioned places for receiving and entering such additional subscriptions, in which the proprietors of the said Company for the time being, shall, and are hereby declared to have the preference of all others for the first thirty days after the said books shall be opened as aforesaid, of taking and subscribing for so many whole shares, as any of them shall choose. And the said President and Directors, are hereby required to observe, in all other respects, the same rules therein as are by this act prescribed for receiving and adjusting the first subscriptions, and in like manner to return under the hands of any three or more of them, an exact list of such additional subscribers, with the sums by them respectively subscribed, into the General Court, as aforesaid, to be there recorded; and all proprietors of such additional shares shall, and they are hereby declared to be, from thenceforward incorporated into the said Company.

Capital of company may be augmented.

XVIII. *AND it is hereby enacted and declared*, That the tolls herein before allowed to be demanded and received at the place above-mentioned, are granted, and shall be paid on condition only, that the said "James River Company" shall make the river well capable of being navigated in dry seasons by vessels drawing one foot water at least, from the highest place practicable to the Great Falls, beginning at Westham, and shall at or near the said Falls, make such cut or cuts, canal or canals, with sufficient locks, if necessary, each of eighty feet in length, and sixteen feet in breadth, as will open a navigation to tide water, in all places at least twenty-five feet wide, except at such locks, and capable of conveying vessels or rafts drawing four feet water at the least, into tide water, or shall render such part of the river navigable in the natural course.

Conditions of power to uplift tolls.

XIX. *AND it is hereby provided and enacted*, That in case the said Company shall not begin the said work within one year after the said Company shall be formed, or shall not complete the same within ten years thereafter, then shall all the interest of the said Company, and all preference in their favor as to the navigation and tolls aforesaid, be forfeited, and cease. *Provided*, That in case the navigation shall be opened from Westham to tide water, before the opening of the river above Lynch's ferry, the tolls above-mentioned may be collected until the expiration of ten years, from the time at which the Company shall have been formed.

On failure, charter to be forfeited.

XX. *AND be it farther enacted*, That the Treasurer of this Commonwealth shall be authorized and directed to subscribe to the amount of one hundred shares in behalf of the same, and the money necessary in consequence of such subscription, shall be paid as the same shall be required. And the Treasurer for the time being, shall have a right to vote according to such shares, in person or by proxy, appointed by him, and shall receive the proportion of the tolls aforesaid, which shall from time to time become due to this State, for the shares aforesaid.

Treasurer of the Commonwealth to subscribe for an hundred shares

Acts within the purview
of this, hereby repealed.

XXI. *AND be it farther enacted*, That so much of every Act and Acts within the purview of this Act, shall be, and the same is hereby repealed. *Provided nevertheless*, That nothing in this Act shall be construed so as to take away the right which the representatives of John Ballendine have to that part of the canal which is already begun, and to all the advantages resulting from the same; but the same shall be valued by a Jury, in manner and form as is before directed, and the said representatives shall be entitled to so many shares in the said Company, and to so much of the surplus water, as the said Jury shall determine; or they shall receive, at their option, the value thereof in money, to be estimated by the said Jury.

CHAP. IV.

An Act for opening and extending the Navigation of Potowmack River.

Preamble.

I. **W**HEREAS the extension of the navigation of Potowmack River, from tide water to the highest place practicable on the North Branch, will be of great public utility, and many persons are willing to subscribe large sums of money to effect so laudable and beneficial a work; and it is just and proper that they, their heirs, and assigns, should be empowered to receive reasonable tolls forever, in satisfaction for the money advanced by them in carrying the work into execution, and the risk they run: **AND WHEREAS** it may be necessary to cut canals and erect locks and other works on both sides of the River, and the Legislatures of Maryland and Virginia, impressed with the importance of the object, are desirous of encouraging so useful an undertaking: Therefore,

Mode of subscribing for
shares.

II. *BE it enacted by the General Assembly of Virginia*, That it shall and may be lawful to open books in the City of Richmond, Towns of Alexandria and Winchester, in this State, for receiving and entering subscriptions for the said undertaking, under the management of Jacquelin Ambler and John Beckley at the City of Richmond, of John Fitzgerald and William Hartshorne at the Town of Alexandria, and of Joseph Holmes and Edward Smith at the Town of Winchester, and under the management of such persons and at such places in Maryland as have been appointed by the State of Maryland, which subscriptions shall be made personally or by power of attorney, and shall be made in Spanish milled dollars, but may be paid in foreign silver or gold coin of the value; that the said books shall be opened for receiving subscriptions on the eighth day of February next, and continue open for this purpose until the tenth day of May next, inclusive; and on the seventeenth day of the said month of May, there shall be a general meeting of the subscribers at the Town of Alexandria, of which meeting notice shall be given by the said Managers, or any four of them, in the Virginia and Maryland Gazettes, at least one month next before the said meeting; and such meeting shall and may be continued from day to day until the business is finished; and the acting Managers at the time and place herein after mentioned, shall lay before such of the subscribers as shall meet according to the said notice, the books by them respectively kept, containing the state of the said subscriptions; and if one half the capital sum herein after mentioned, should, upon examination, appear not to have been subscribed, then the said Managers at the said meeting, are empowered to take and receive subscriptions to make up the deficiency; and a just and true list of all the subscribers, with the sums subscribed by each, shall be made out and returned by the said Managers, or any four or more of them, under their hands, into the General Court of each State, to be there recorded; and in case more than two hundred and twenty-two thousand two hundred and twenty-two dollars and two-ninths of a dollar, shall be subscribed, then the same shall be reduced to that sum by the said Managers, or a majority of them, by beginning at and striking off a share from the largest subscription or subscriptions, and continuing to strike off a share from all subscriptions under the largest, and above one share, until the sum is reduced to the capital of two hundred and twenty-two thousand two hundred and twenty-two dollars and two-ninths of a dollar, or until a share is taken from all subscriptions above one share, and lots shall be drawn between the subscribers of equal sums, to determine the numbers in which such subscribers shall stand, on a list to be made for striking off as aforesaid; and if the sum subscribed still exceeds the capital aforesaid, then to strike off by the same rule until the sum subscribed is reduced to the capital aforesaid, or all the subscriptions are reduced to one share; and if there still be an excess, then lots to

Amount of capital.

be drawn to determine the subscribers who are to be excluded, to reduce the subscriptions to the capital aforesaid, which striking off shall be certified in the list aforesaid, and the said capital sum shall be reckoned and divided into five hundred shares, of four hundred and forty-four dollars and four-ninths of a dollar each, of which every person subscribing may take and subscribe for one or more whole shares, and not otherwise. *Provided*, That unless one half of the said capital shall be subscribed as aforesaid, all subscriptions made in consequence of this Act, shall be void; and in case one half and less than the whole of the said capital shall be subscribed as aforesaid, then the President and Directors are hereby empowered and directed to take and receive the subscriptions which shall first be offered in whole shares as aforesaid, until the deficiency shall be made up, a certificate of which additional subscriptions shall be made under the hands of the President and Directors, or a majority of them for the time being, and returned to and recorded in the General Courts, aforesaid.

Conditions that may void this act.

III. *AND be it enacted*, That in case one half of the said capital, or a greater sum, shall be subscribed as aforesaid, the said subscribers and their heirs and assigns, from the time of the said first meeting, shall be, and are hereby declared to be incorporated into a Company, by the name of the "Potowmack Company," and may sue and be sued, as such: and such of the said subscribers as shall be present at the said meeting, or a majority of them, are hereby empowered and required to elect a President and four Directors, for conducting the said undertaking, and managing all the said Company's business and concerns, for and during such time, not exceeding three years, as the said subscribers, or a majority of them, shall think fit; and in counting the votes of all general meetings of the said Company, each member shall be allowed one vote for every share, as far as ten shares, and one vote for every five shares above ten, by him or her held at the time in the said Company, and any proprietor by writing, under his or her hand, executed before two witnesses, may depute any other member or proprietor to vote and act as proxy for him or her, at any general meeting.

Title of the Company.

Authorized to elect officers.

Mode of election.

IV. *AND be it enacted*, That the said President and Directors so elected, and their successors, or a majority of them assembled, shall have full power and authority to agree with any person or persons on behalf of the said Company, to cut such canals and erect such locks, and perform such other works as they shall judge necessary for opening, improving, and extending the navigation of the said River, above tide water to the highest part of the North Branch to which navigation can be extended, and carrying on the same from place to place, and from time to time, and upon such terms and in such manner as they shall think fit, and out of the money arising from the subscriptions and the tolls, and other aids herein after given, to pay for the same, and to repair and keep in order the said canals, locks, and other works necessary thereto, and to defray all incidental charges; and also to appoint a Treasurer, Clerk, and such other Officers, Toll-gatherers, Managers, and servants, as they shall judge requisite, and to agree for and settle their respective wages or allowances, and settle, pass and sign their accounts; and also to make and establish rules of proceeding, and to transact all the other business and concerns of the said Company, in and during the intervals between the general meetings of the same, and they shall be allowed as a satisfaction for their trouble therein, such sum of money as shall, by a general meeting of the subscribers, be determined. *Provided always*, That the Treasurer shall give bond, in such penalty and with such security, as the said President and Directors, or a majority of them, shall direct, for the true and faithful discharge of the trust reposed in him, and that the allowance to be made to him for his services, shall not exceed three pounds in the hundred for the disbursements by him made; and that no Officer in the said Company shall have any vote in the settlement or passing of his own account.

Powers of the officers.

V. *AND be it enacted*, That the said President and Directors, and their successors, or a majority of them, shall have full power and authority, from time to time, as money shall be wanting, to make and sign orders for that purpose, and direct at what time, and in what proportion the proprietors shall advance and pay off the sums subscribed, which orders shall be advertised at least one month in the Virginia and Maryland Gazettes; and they are hereby authorized and empowered to demand and receive of the several proprietors, from time to time, the sums of money so ordered to be advanced for carrying on and executing, or repairing and keeping in order the said works, until the sums subscribed shall be fully paid, and to order the said sums to be deposited into the hands of the Treasurer, to be by him disbursed and paid out as the said

Mode of collecting amount of share subscribed for.

May sell shares of delinquent subscribers.

May sue for deficiencies arising on sales.

Election of new officers.

Oath of office.

Meetings of the Company.

Property vested in holders of shares.

President and Directors, or a majority of them, shall order and direct; and if any of the said proprietors shall refuse or neglect to pay their said proportions within one month after the same so ordered and advertised as aforesaid, the said President and Directors, or a majority of them, may sell at auction, and convey to the purchaser, the share or shares of such proprietor so refusing or neglecting payment, giving at least one month's notice of the sale in the Virginia and Maryland Gazettes, and after retaining the sum due and charges of sale, out of the money produced thereby, they shall refund and pay the overplus, if any, to the former owner; and if such sale shall not produce the full sum ordered and directed to be advanced as aforesaid, with the incidental charges, the said President and Directors, or a majority of them, may, in the name of the Company, sue for and recover the balance by action of debt, or on the case; and the said purchaser or purchasers shall be subject to the same rules and regulations as if the said sale and conveyance had been made by the original proprietor. AND to continue the succession of the said President and Directors, and to keep up the same number,

VI. *BE it enacted*, That from time to time, upon the expiration of the said term for which the said President and Directors were appointed, the proprietors of the said Company at the next general meeting, shall either continue the said President and Directors, or any of them, or shall choose others in their stead; and in case of the death, removal, resignation or incapacity of the President, or any of the said Directors, may and shall, in manner aforesaid, elect any other person or persons to be President and Directors in the room of him or them, so dying, removing, or resigning, and may, at any of their general meetings remove the President, or any of the Directors, and appoint others, for and during the remainder of the term for which such person or persons were at first to have acted.

VII. *AND be it enacted*, That every President and Director, before he acts as such, shall take an oath or affirmation for the due execution of his office.

VIII. *AND be it enacted*, That the presence of proprietors having one hundred shares at the least, shall be necessary to constitute a general meeting, and that there be a general meeting of proprietors on the first Monday of August in every year, at such convenient town as shall from time to time be appointed by the said general meeting; but if a sufficient number should not attend on that day, the proprietors who do attend, may adjourn such meeting from day to day, till a general meeting of proprietors shall be had, which may be continued from day to day, until the business of the Company is finished, to which meeting the President and Directors shall make report, and render distinct and just accounts of all their proceedings, and, on finding them fairly and justly stated, the proprietors then present, or a majority of them, shall give a certificate thereof, a duplicate of which shall be entered on the said Company's books; and at such yearly general meetings, after leaving in the hands of the Treasurer, such sum as the proprietors or a majority of them shall judge necessary for repairs and contingent charges, an equal dividend of all the neat profits, arising from the tolls hereby granted, shall be ordered and made to and among all the proprietors of the said Company, in proportion to their several shares; and upon any emergency in the interval between the said yearly meetings, the said President, or a majority of the said Directors, may appoint a general meeting of the proprietors of the said Company, at any convenient town, giving at least one month's previous notice in the Maryland and Virginia Gazettes, which meeting may be adjourned and continued as aforesaid.

IX. *AND be it further enacted*, That for and in consideration of the expenses the said proprietors will be at, not only in cutting the said canals, erecting locks, and other works for opening the different falls of the said River, and in improving and extending the navigation thereof, but in maintaining and keeping the same in repair, the said canals and works, with all their profits, shall be, and the same are hereby vested in the said proprietors, their heirs, and assigns forever, as tenants in common, in proportion to their respective shares, and the same shall be deemed real estate, and be forever exempt from payment of any tax, imposition or assessment whatsoever; and it shall and may be lawful for the said President and Directors, at all times forever hereafter, to demand and receive at the nearest convenient place below the mouth of the South Branch, and at or near Payne's Falls, and at or above the Great Falls of the River Potomack, and every of these places separately, for all commodities transported through either of them respectively, tolls according to the following table and rates, to wit:

	At the mouth of the South Branch.	At Payne's Falls.	At the Great Falls.	Table of rates.
		Sterling.		
Every pipe or hoghead of wine, containing more than sixty-five gallons, - - -	£. 0 1 6	£. 0 1 6	£. 0 3 0	
Every hoghead of rum or other spirits, - - -	0 1 3	0 1 3	0 2 6	
Every hoghead of tobacco, - -	0 1 0	0 1 0	0 2 0	
Every cask between sixty-five and thirty-five gallons one half of a pipe or hoghead; barrels, one fourth part; and smaller casks or kegs in proportion, according to the quality and quantity of their contents of wine or spirits. For casks of linseed oil the same as spirits.				
Every bushel of wheat, peas, beans, or flax-seed, - - -	0 0 0 $\frac{1}{2}$	0 0 0 $\frac{1}{2}$	0 0 1	
Every bushel of Indian corn or other grain, or salt, - - -	0 0 0 $\frac{1}{4}$	0 0 0 $\frac{1}{4}$	0 0 0 $\frac{1}{2}$	
Every barrel of pork, - - -	0 0 6	0 0 6	0 1 0	
Every barrel of beef, - - -	0 0 4	0 0 4	0 0 8	
Every barrel of flour, - - -	0 0 3	0 0 3	0 0 6	
Every ton of hemp, flax, pot-ash, bar or manufactured iron, - -	0 2 6	0 2 6	0 5 0	
Every ton of pig iron or castings, -	0 0 10	0 0 10	0 1 8	
Every ton of copper, lead, or other ore, other than iron ore, - - -	0 2 0	0 2 0	0 4 0	
Every ton of stone, or iron ore, -	0 0 5	0 0 5	0 0 10	
Every hundred bushels of lime, -	0 1 3	0 1 3	0 2 6	
Every chaldron of coals, - - -	0 0 5	0 0 5	0 0 10	
Every hundred pipe staves, - - -	0 0 2 $\frac{1}{4}$	0 0 2 $\frac{1}{4}$	0 0 4 $\frac{1}{2}$	
Every hundred hoghead staves, or pipe or hoghead heading, - - -	0 0 1 $\frac{1}{2}$	0 0 1 $\frac{1}{2}$	0 0 3	
Every hundred barrel staves or bar- rel heading, - - -	0 0 1	0 0 1	0 0 2	
Every hundred cubic feet of plank or scantling, - - -	0 0 10	0 0 10	0 1 8	
Every hundred cubic feet of other timber, - - -	0 0 5 $\frac{1}{2}$	0 0 5 $\frac{1}{2}$	0 0 11	
Every gross hundred weight of all other commodities & packages, -	0 0 1 $\frac{1}{2}$	0 0 1 $\frac{1}{2}$	0 0 3	
And every empty boat or vessel, which has not commodities on board to yield so much, except an empty boat or vessel returning, whose load has already paid at the respective places, the sums fixed at each, in which case she is to re- pass toll free, - - -	0 2 6	0 2 6	0 5 0	

Which tolls are rated in sterling money, and may be discharged in foreign gold or silver coin of the present fineness, at the following rates, to wit:

	Sterling.
Spanish milled piece of eight, or dollar, - - -	£. 0 4 6
Other coined silver of equal fineness per ounce, - - -	0 5 1 $\frac{3}{4}$
English milled crowns, - - -	0 5 0
French silver crowns, - - -	0 5 0
Johannes weighing eighteen pennyweights, - - -	3 12 0
Half Johannes, weighing nine pennyweights, - - -	1 16 0
Moidores weighing six pennyweights eighteen grains, - - -	1 7 0

English Guineas weighing five pennyweights six grains,	-	1	1	0
French guineas weighing five pennyweights five grains,	-	1	0	10
Doublons weighing seventeen pennyweights,	-	3	6	0
Spanish pistoles weighing four pennyweights six grains,	-	0	16	6
French milled pistoles weighing four pennyweights and four grains,	0	16	4	
Arabian chequins weighing two pennyweights three grains,	0	8	6	
Other gold coin (German excepted) by the pennyweight,	-	0	4	0

But if any of the coins aforesaid, should hereafter be rendered less valuable than they are at present, either by lessening their weight, or therewith adding a greater quantity of alloy than is in them respectively at present, then so much of any of the said coins, the value of which is so reduced, to be received for the tolls aforesaid, as is equal in value to the said coins in their present state of fineness and weight, shall be payable for the said tolls at their reduced value only. And in case of refusal or neglect to pay the tolls at the time of offering to pass through any of the said places, and previous to the vessel's passing through the same, the Collectors of the said tolls may lawfully refuse passage to such vessels, and if any vessel shall pass without paying the said toll, then the said Collectors may seize such vessel wherever found, and sell the same at auction for ready money, which so far as is necessary shall be applied towards paying the said toll and all expenses of seizure and sale, and the balance, if any, shall be paid to the owner; and the person having the direction of such vessel, shall be liable for such toll, if the same is not paid by sale of such vessel as aforesaid. *Provided*, That the said proprietors or a majority of them, holding at least three hundred shares, shall have full power and authority at any general meeting, to lessen the said tolls or any of them, or to determine that any article may pass free of toll.

Vessels passing without paying toll liable to seizure.

River and works to be esteemed a public highway.

X. *AND be it enacted*, That the said river and the works to be erected thereon in virtue of this Act, when completed, shall forever thereafter be esteemed and taken to be navigable as a public highway, free for the transportation of all goods, commodities, or produce whatsoever, on payment of the tolls imposed by this Act, and no other toll or tax whatever for the use of the water of the said River, and the works thereon erected, shall at any time hereafter be imposed by both or either of the said States, subject nevertheless to such regulations, as the Legislatures of the said States may concur in, to prevent the importation of prohibited goods, or to prevent fraud in evading the payment of duties imposed in both or either of the said States on goods imported into either of them. *AND WHEREAS* it is necessary for the making the said canal, locks, and other works, that a provision should be made for condemning a quantity of land for the purpose;

How the necessary lands may be acquired by the Company.

XI. *BE it enacted*, That it shall and may be lawful for the said President and Directors, or a majority of them, to agree with the owners of any land, through which the said canal is intended to pass, for the purchase thereof, and in case of disagreement, or in case the owner thereof shall be a feme-covert, under age, non-compos, or out of the State, on application to any two Justices of the County, in which such land shall lie, the said Justices shall issue their warrant, under their hands, to the Sheriff of their County, to summon a Jury of twenty-four inhabitants of his County, of property and reputation, not related to the parties nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant, not less than ten, nor more than twenty days thereafter; and the Sheriff, upon receiving the said warrant, shall forthwith summon the said Jury, and when met, provided that not less than twelve do appear, shall administer an oath or affirmation to every Jurymen that shall appear, "That he will faithfully, justly and impartially value the land (not exceeding in any case the width of one hundred and forty feet) and all damages the owner thereof shall sustain by the cutting the canal through such land, according to the best of his skill and judgment, and that in such valuation he will not spare any person, through favor or affection, nor any person grieve through malice, hatred or ill-will." And the inquisition thereupon taken, shall be signed by the Sheriff, and some twelve or more of the Jury, and returned by the Sheriff to the Clerk of his County, to be by him recorded; and upon every such valuation, the Jury is hereby directed, to describe and ascertain the bounds of the land by them valued, and their valuation shall be conclusive on all persons, and shall be paid by the said President and Directors to the owner of the land, or his legal representative, and on payment thereof, the said Company shall be seized in fee of such land, as if conveyed by the owner to them and their

successors by legal conveyance. *Provided nevertheless*, That if any farther damage shall arise to any proprietor of land in consequence of opening such canal, or in erecting such works, than had been before considered and valued, it shall and may be lawful for such proprietor, as often as any such new damage shall happen, by application to, and a warrant from any two Justices of the County where the lands lie, to have such further damage valued by a Jury in like manner, and to receive and recover the same of the said President and Directors: But nothing herein shall be taken or construed to entitle the proprietor of any such land to recover compensation for any damages which may happen to any mills, forges, or other water-works, or improvements, which shall be begun or erected by such proprietor after such first valuation, unless the said damage is wilfully or maliciously done by the said President and Directors, or some person by their authority.

XII. *AND be it enacted*, That the said President and Directors, or a majority of them, are hereby authorized to agree with the proprietors for the purchase of a quantity of land, not exceeding one acre, at or near each of the said places of receipt of tolls aforesaid, for the purpose of erecting necessary buildings; and in case of disagreement or any of the disabilities aforesaid, or the proprietor being out of the State, then such land may be valued, condemned and paid for as aforesaid, for the purpose aforesaid, and the said Company shall, upon payment of the valuation of the said land, be seized thereof in fee-simple, as aforesaid. *AND WHEREAS*, some of the places through which it may be necessary to conduct the said canals may be convenient for erecting mills, forges, and other water-works, and the persons possessors of such situation may design to improve the same, and it is the intention of this Act not to interfere with private property, but for the purpose of improving and perfecting the said navigation:

XIII. *BE it enacted*, That the water or any part thereof, conveyed through any canal or cut made by the said Company, shall not be used for any purpose but navigation, unless the consent of the proprietors of the land through which the same shall be led, be first had, and the said President and Directors, or a majority of them, are hereby empowered and directed, if it can be conveniently done, to answer both the purposes of navigation and water-works aforesaid, to enter into reasonable agreements with the proprietors of such situation, concerning the just proportion of the expenses of making large canals or cuts capable of carrying such quantities of water as may be sufficient for the purposes of navigation, and also for any such water-works as aforesaid.

XIV. *AND be it enacted*, That it shall and may be lawful for every of the said proprietors to transfer his share or shares, by deed, executed before two witnesses, and registered after proof of the execution thereof in the said Company's books, and not otherwise, except by devise, which devise shall also be exhibited to the President and Directors, and registered in the Company's books, before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls. *Provided*, That no transfer whatsoever shall be made, except for one or more whole share or shares, and not for part of such shares, and that no share shall at any time be sold, conveyed, transferred or held in trust, for the use and benefit, or in the name of another, whereby the said President and Directors or proprietors of the said Company, or any of them, shall or may be challenged or made to answer, concerning any such trust, but that every such person appearing as aforesaid, to be a proprietor, shall, as to the others of the said Company, be to every intent taken absolutely as such; but as between any trustee and the person for whose benefit any trust shall be created, the common remedy may be pursued. *AND WHEREAS*, it hath been represented to this General Assembly, that sundry persons are willing and desirous, on account of the great public advantages and improvement their estates may receive thereby, to promote and contribute towards so useful an undertaking, and to subscribe sums of money to be paid on condition the said works are really completed and carried into execution, but do not care to run any risk, or desire to have any property therein:

XV. *BE it therefore enacted*, That the said President and Directors shall be, and are hereby empowered to receive and take in subscriptions, upon the said condition, and upon the said works being completed and carried into execution, according to the true intent and meaning of this Act, that it shall and may be lawful for the said President and Directors, or a majority of them, in case of refusal or neglect of payment, in the name of the Company as aforesaid, to sue

Shares transferrable.

Subscriptions in aid to be received by President and Directors.

for and recover of the said subscribers, their heirs, executors or administrators, the sums by them respectively subscribed, by action of debt, or upon the case, in any Court of Record within this State.

Capital of the Company may be increased.

XVI. *AND be it enacted*, That if the said capital, and the other aids already granted by this Act, shall prove insufficient, it shall and may be lawful for the said Company, from time to time, to increase the said capital by the addition of so many more whole shares, as shall be judged necessary by the said proprietors or a majority of them, holding at least three hundred shares, present at any general meeting of the said Company. And the said President and Directors, or a majority of them, are hereby empowered and required, after giving at least one month's notice thereof in the Maryland and Virginia Gazettes, to open books at the before-mentioned places, for receiving and entering such additional subscriptions, in which the proprietors of the said Company, for the time being, shall, and are hereby declared to have the preference of all others for the first thirty days after the said books shall be opened as aforesaid, of taking and subscribing for so many whole shares as any of them shall choose. And the said President and Directors are hereby required to observe in all other respects the same rules therein, as are by this Act prescribed, for receiving and adjusting the first subscriptions and in like manner to return, under the hands of any three or more of them, an exact list of such additional subscribers, with the sums by them respectively subscribed, into the General Courts, as aforesaid, to be there recorded, and all proprietors of such additional sums, shall, and are hereby declared to be, from thenceforward, incorporated into the said Company.

Conditions on which tolls are made payable.

XVII. *AND it is hereby declared and enacted*, That the tolls herein before allowed, to be demanded and received at the nearest convenient place below the mouth of the South Branch, are granted, and shall be paid on condition only, That the said Potowmack Company shall make the river well capable of being navigated in dry seasons, by vessels drawing one foot water from the place on the North Branch, at which a road shall set off to the Cheat River, agreeably to the determination of the Assemblies of Virginia and Maryland, to and through the place which may be fixed on, below the mouth of the South Branch, for receipt of the tolls aforesaid; but if the said river is only made navigable as aforesaid, from Fort-Cumberland, to and through the said place below the mouth of the South Branch, then only two-thirds of the said tolls shall be there received. That the tolls herein before allowed, to be demanded and received at or near Payne's Falls, are granted and shall be payable on condition only, that the said Potowmack Company shall make the River well capable of being navigated in dry seasons, by vessels drawing one foot water, from the said place of collection, near the mouth of the South Branch, to and through Payne's Falls as aforesaid. That the tolls herein before allowed to be demanded and received at the Great Falls, are granted, and shall be payable on condition only, that the said Potowmack Company shall make the river well capable of being navigated in dry seasons, from Payne's Falls to the Great Falls, by vessels drawing one foot water, and from the Great Falls to tide water, and shall at or near the Great Falls make a cut or canal, twenty-five feet wide, and four feet deep, with sufficient locks, if necessary, each of eighty feet in length, sixteen feet in breadth, and capable of conveying vessels or rafts drawing four feet water at the least, and shall make at or near the Little Falls such canal and locks, if necessary, as will be sufficient and proper to let vessels and rafts aforesaid, into tide water, or render the said river navigable in the natural course.

Charter, how forfeitable.

XVIII. *AND it is hereby provided and enacted*, That in case the said Company shall not begin the said work within one year after the Company shall be formed, or if the navigation shall not be made and improved between the Great Falls and Fort-Cumberland, in the manner herein before mentioned, within three years after the said Company shall be formed, that then the said Company shall not be entitled to any benefit, privilege, or advantage, under this Act: And in case the said Company shall not complete the navigation through and from the Great Falls to tide water as aforesaid, within ten years after the said Company shall be formed, then shall all interest of the said Company and all preference in their favor, as to the navigation and tolls, at, through, and from the Great Falls to tide water, be forfeited and cease.

XIX. *AND be it enacted*, That all commodities of the produce of either of the said States, or of the Western Country, which may be carried or transported through the said locks, canals, and river, may be landed, sold, or otherwise disposed of, free from any other duties, impositions, regulations, or restraints.

tions, of any kind, than the like commodities of the produce of the State in which the same may happen to be so landed, sold, shipped, or disposed of.

XX. *AND be it further enacted*, That the Treasurer of this Commonwealth shall be authorized and directed to subscribe to the amount of fifty shares, in behalf of the same, and the money necessary in consequence of such subscriptions shall be paid as the same shall be required. And the Treasurer for the time being shall have a right to vote according to such shares, in person or by proxy, appointed by him, and shall receive the proportion of the tolls aforesaid, which shall, from time to time, become due to this State for the shares aforesaid.

Treasurer to subscribe for fifty shares.

XXI. *AND be it further enacted*, That so much of every Act and Acts, within the purview of this Act, shall be, and the same is hereby repealed.

Repealing clause

At a General Assembly, begun and held at the Capitol, in the City of Richmond, on Monday, the 1st day of October, in the Year of our Lord, 1792.

CHAP. V.

An Act to amend an Act, intituled, "An Act authorising the Executive to direct the Sheriffs to sell certain Lands the Property of this Commonwealth."

[Passed November the 24th, 1792.]

I. **B**E it enacted by the General Assembly, That from and after the passing of this act, it shall not be lawful for any sheriff, to sell any tract or parcel of land belonging to this Commonwealth, under the directions of an act, intituled, "An act authorising the Executive to direct the sheriffs to sell certain lands the property of this commonwealth," unless the same shall sell for the whole sum due to the commonwealth, including the original cost and the expenses attending the sale thereof, and excluding the damages imposed by the act, intituled, "An act to remedy abuses in the manner of selling lands for the payment of public taxes."

Public lands not to be sold by the sheriffs unless the sales amount to the debts due to, and expenses incurred by the public.

II. *AND be it further enacted*, That the fees of the county surveyors, as well for having surveyed any tract or parcel of land, which under the last recited act has already become the property of the commonwealth, and which have not been paid, as for making any future survey in pursuance of the said act, shall be paid out of the aggregate fund, and in no other manner.

Surveyor's fees to be paid out of the aggregate fund.

III. *AND be it further enacted*, That no sheriff or deputy sheriff, who hath been heretofore concerned in the sale of any the above described lands, and no surveyor or deputy surveyor, shall become the purchasers of any such lands, either directly or indirectly; and if contrary to the intent and meaning of this act, any sheriff or surveyor, or the deputy or deputies of either, shall become purchasers thereof, or interfere in any manner in the sale thereof, such purchase shall not only be null and void, but every such person and persons so offending, shall moreover forfeit and pay the sum of three hundred dollars; to be recovered by bill, plaint or information, in any court of record within this commonwealth, one half to the use of the informer, and the other half to the use of the commonwealth.

Certain sheriffs and surveyors prohibited from purchasing such lands, or interfering in the sales thereof, under certain penalties.

IV. **WHENSOEVER** any lands as aforesaid, sold or to be sold, shall be redeemed or purchased, by the former proprietor, his or her agent or friend, acting in his or her behalf, such proprietor shall be exonerated from the payment of all costs, except those which have actually arisen upon the sale thereof, and in either case the release of the sheriff executed agreeably to the directions of the aforesaid first recited act, shall to all intents and purposes remit such former proprietor to, and reinstate him or her in their former estate in such land: And where such former sheriff shall have obtained a credit for any surveyor's fee as above mentioned, and shall not have had such survey actually made, in that case, the proprietor or proprietors as aforesaid, shall have the like remedy and proceedings against such sheriff and his securities, or either of them, as if the same had been redeemed before so sold; any law to the contrary thereof, notwithstanding.

Conditions on which the former proprietors may redeem such lands.

Their remedy against the sheriffs for surveyors' fees received, when no surveys have been made.

V. **THIS** act shall commence and be in force from and after the passing thereof.

Commencement of this act.

CHAP. VI.

An Act to provide more effectually for the Collection of the Public Taxes in certain Cases.

[Passed December the 26th, 1792.]

Preamble.

I. **W**HEREAS it hath been represented, that in many of the counties in this commonwealth, no person hath undertaken or would undertake the collection of the public taxes payable therein, so that the same still remain due and unpaid by the inhabitants thereof: For remedy whereof,

The executive empowered to appoint collectors of taxes in certain counties,

II. *BE it enacted by the General Assembly*, That the governor, with advice of the council, shall and he is hereby required to appoint and commission proper persons to collect the taxes of every county in this commonwealth where no collector hath been appointed, and undertaken the same by giving bond and security; and the person or persons so commissioned, shall before he or they proceed to the collection of the public taxes, give the like bond and security as is directed in the case of sheriffs, either in the court of the county in which he resides, in the court of the county of which he is appointed collector, or before the Executive. And the collector or collectors to be qualified under this act, shall receive the same commissions, and be liable to the same remedies, fines and penalties as sheriffs are subject to for a failure in the collecting, accounting for, and paying the public taxes. Every bond taken pursuant to this act, shall be as effectual to all intents and purposes, as those entered into by sheriffs for the collection of the public taxes.

And commissioners to ascertain the taxable property.

III. *AND* whereas no commissioners have been appointed in several counties, and from the neglect of commissioners in returning a list of the taxable property in several other counties, by reason whereof no collection of the public taxes have been or could be made: For remedy whereof, *Be it further enacted*, That the governor, with the advice of council, shall appoint three discreet and proper persons in each county, coming within the purview of this act, whose duty it shall be to enquire into and ascertain the taxable property in such county, (where the same hath not been done) on which arrears of taxes are still due; a copy of which return shall be delivered to the collector or collectors qualifying under this act, and one other copy transmitted to the auditor, from which list the collector shall proceed to collect the said taxes, and account for and pay the same. The commissioners appointed under this act, shall be liable to the same penalties, and be entitled to the same wages, as are prescribed for other commissioners, by an act, intituled, "An act prescribing the mode of ascertaining the taxable property within this commonwealth, and of collecting the public revenue."

Suits to be commenced against delinquent commissioners of estates sequestered during the late war.

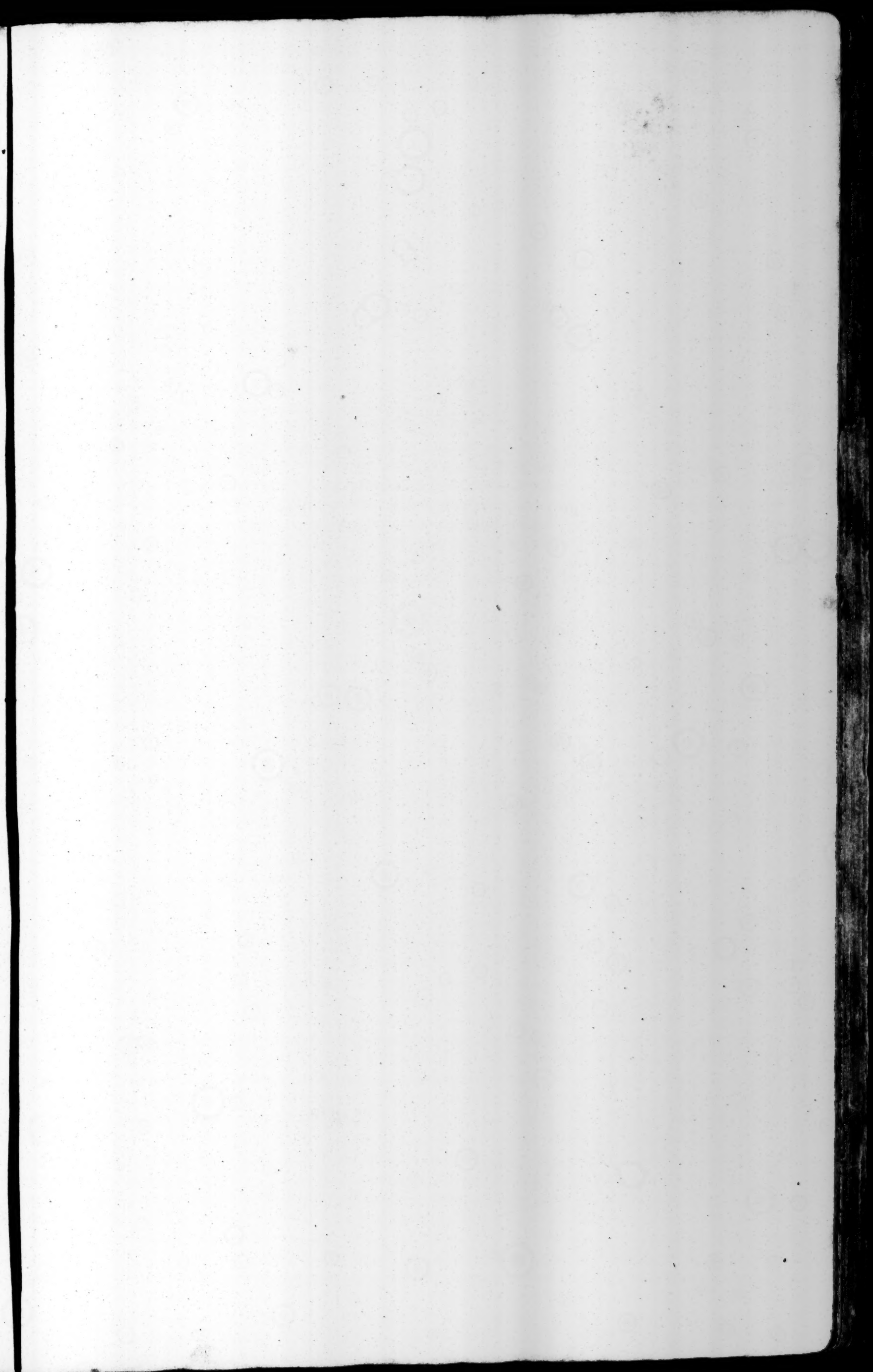
IV. *AND be it further enacted*, That if any commissioner appointed by the governor and council, pursuant to the act passed in the year one thousand seven hundred and seventy-seven, intituled, "An act for sequestering British property, enabling those indebted to British subjects to pay off such debts, and directing the proceedings in suits where such subjects are parties," have failed to render a fair account upon oath of his disbursements and receipts of the estate committed to his management, or failed to pay the balance due on any account by him rendered, every such commissioner, or the executors or administrators of such as be dead, shall, by order and direction of the Executive, be sued in the name of the commonwealth, for the recovery of any balance which may remain in his or their hands.

Executive to take proper measures for the recovery of public debts; and make a report of their situation to the next assembly.

V. *AND be it further enacted*, That the Executive be, and they are hereby authorized and required to cause all legal ways and means to be exerted without delay, for the speedy and effectual recovery of all debts and balances of every denomination, due and owing to the commonwealth, and make particular report of the situation thereof to the next session of the General Assembly.

Commencement of this act.

VI. *THIS* act shall commence and be in force from and after the passing thereof.



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